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IN THE SENATE

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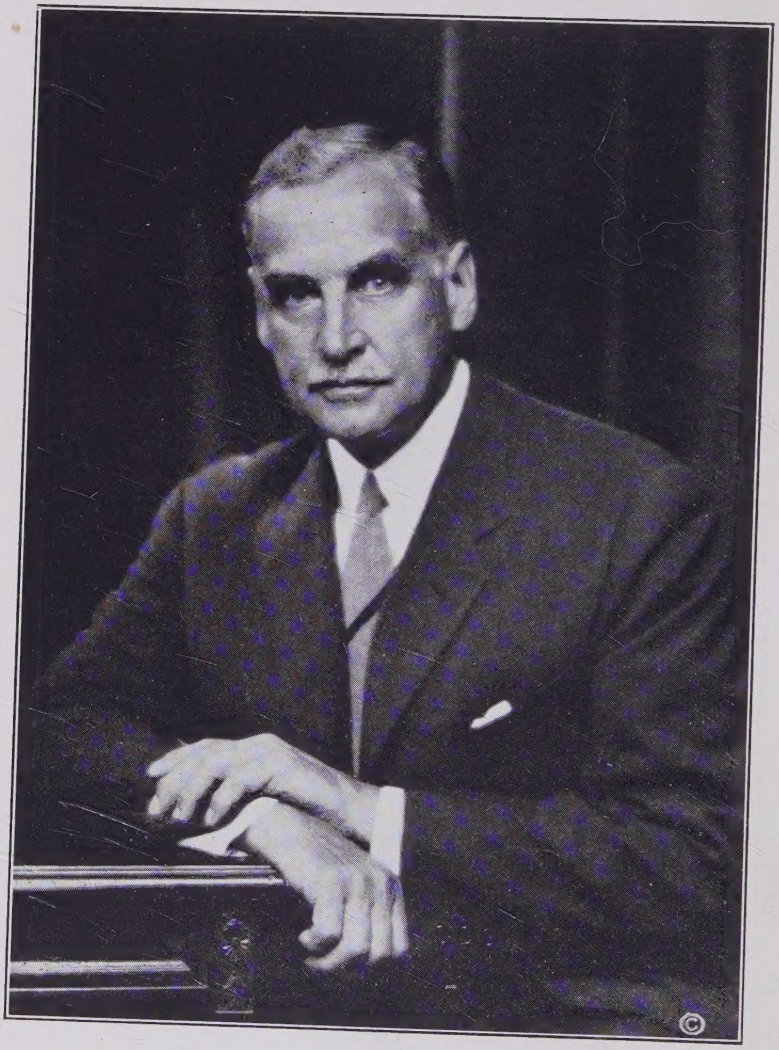

GEORGE WHARTON PEPPER

# IN THE SENATE

By

George Wharton Pepper

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G. W. P.

IN THE SENATE

# I

## A NEW SENATOR

BOIES PENROSE was dead. The famous Republican leader who had represented Pennsylvania in the United States Senate for almost a quarter of a century, who had served effectively as chairman of the Finance Committee and for years dominated the turbulent politics of his state, had answered the final roll call.

In the world of Pennsylvania politics the question during the first few days of 1922 was: "Who will succeed him?" The decision rested with the late William C. Sproul, governor of the state, on whom it devolved to appoint a successor to serve until after the people indicated their choice in the election of November, 1922.

Among all the names proposed at the time to fill the seat left vacant by our departed giant, my own, to my knowledge, was never included. The idea was first suggested to me by Governor Sproul himself on the evening of Wednesday, January 4, 1922. I had returned to my Philadelphia law office late that afternoon from a legal conference in Trenton. Waiting on my desk I found, among other memoranda, a request to telephone the governor immediately at the Union League. He was eager, the message read, to discuss an urgent matter with me. I complied, and as a result of my call we made an appointment to meet that evening at nine o'clock.

My contacts with Governor Sproul had been many and friendly. For a year I had sat as one of his appointees

on the Pennsylvania Commission on Constitutional Amendment and Revision, and on several occasions he had honored me by asking my advice on matters affecting his administration and its problems. At this time I thought perhaps another such problem had arisen and that he wanted to discuss it with me. I felt, in fact, that I could anticipate the problem. The governor, I knew, was being strongly urged to resign from his office with a gentlemen's agreement that Lieutenant-Governor Edward E. Beidleman, on assuming the chair, would appoint him to the United States Senate. The possibility of some such arrangement had been widely discussed in the newspapers. Despite, however, the governor's undoubted qualifications for the office, it was my personal opinion that the suggested course would be an unworthy one for him to follow. I assumed that it was on this point he desired to consult me, and as I walked from my office down Walnut Street toward the secluded and dignified Philadelphia Club where our appointment was to be kept, I considered the best way to give him such unwelcome advice in an acceptable fashion. Finally, after much thought, I decided to say that he was in the position of a man trusted with the awarding of a valuable prize and that the last thing he could honorably do was to select himself as beneficiary. I reached the club a few minutes before him and sat mentally framing the form of my proposed advice as the governor entered.

Scarcely had I risen to greet him when he asked abruptly, "George, how would you like to go to the United States Senate?"

The question, propounded in such a way, tended instantly to confirm my expectations. How would I like

to go to the United States Senate? How would any man like to go?

It was, I felt convinced, purely a rhetorical question, which meant in fact: "If you were I, how would you like to be a senator?" So I parried:

"That," I replied, "depends on your title to the office."

"Well, if I were to appoint you, what would be the matter with your clear title?" asked the governor.

"But," I protested, "we're talking about you, not me."

"Not at all," said the governor. "I'm quite serious in what I say. I have given up all idea of taking that place myself and I want to offer it to you."

Naturally I was as much taken by surprise as any man could be who had never thought of himself in such a connection. After a moment's silence I asked if this was the tender of an interim appointment, merely to keep the seat warm until a popular election had determined Penrose's successor.

"Certainly not," the governor assured me. "I should expect you to enter the primaries and, if nominated and elected, to serve a full term."

I then asked for time to consider the proposal, and after further discussion agreed to give my final decision the following afternoon at four o'clock.

Little more was said. I walked to my home and discussed the proffered honor with Mrs. Pepper, who, though plainly averse to any change which necessitated leaving our home and our family contacts, said at once that she would concur cheerfully in any decision I reached. The next day I consulted a few intimate friends whose judgment I trusted. Among them were Justice William I. Schaffer and Chief Justice Robert von Mosch-

zisker, both of the Supreme Court of Pennsylvania. They did much to help me reach a decision.

"You have made," the latter said in effect, "many addresses concerning the responsibility of all citizens to perform their share of public service and civic duty. Your statements, I am sure, were quite sincere. It seems to me now that the significant question is whether or not you will make those declarations good."

My law partners expressed a willingness to carry on the office organization and enable me to maintain a modified relation to it, notwithstanding the fact that the proposal involved serious professional responsibilities for them. The appointment would take me out of the working force. During my term in office the firm could not accept retainers from clients whose claims were adverse to those of the Federal Government, as, for example, tax settlements and refunds, questions under the contract labor law and others of similar nature. There was also the strong probability that certain important clients, accustomed to depend on my personal service, would slip away. All this could mean loss of income to the firm. In my own case, of course, the pecuniary consequences promised to be very serious. My family and I were, and still are, dependent on my earnings. I faced the necessity of cutting down a handsome professional income, maintaining a home in Washington as well as in Philadelphia and accepting a salary which was not only small in itself but, as afterward turned out to be the case, was more than absorbed in meeting the clerical and administrative expenses of my Senate office.

All these phases of the problem I considered thoroughly in the short time permitted me, and just before four o'clock on Thursday afternoon I called on Gover-

nor Sproul at his Philadelphia office and asked if he were still of the same mind. "More than ever," the governor assured me heartily. "I might as well tell you that I have made confidential inquiries on the attitude of various informed and politically important men throughout the state toward your appointment, and have had a most favorable reception. The offer is still open. What is your decision?"

"I accept," I said, and four days later I had the interesting experience of finding myself presiding over the Senate of the United States. Senator Albert B. Cummins, of Iowa, then president pro tem., had honored me by inviting me to take the chair temporarily on my first day in that body.

There were, of course, certain prescribed and necessary formalities to be followed between the time of my oral acceptance and my actual induction as a United States Senator. We arranged that my commission entitling me to serve until after a candidate had been chosen by the people should be presented to me formally the following Monday, January ninth, in Governor Sproul's Philadelphia office.

The ceremony of presentation was quite simple. Governor Sproul invited two men who were his personal friends as well as my own—Chief Justice von Moschzisker and W. W. Atterbury, then vice-president of the Pennsylvania Railroad. At the conclusion of the ceremony, newspapermen photographed the group. Typical of political methods is the fact that even this ceremony was utilized to my disadvantage in the primary campaign held a few months later. Opponents distributed copies of the photograph widely, with the object of proving that I was a tool of the Pennsylvania Railroad and of the

vested interests. The fact that I had never, in my entire professional career, represented that company, and had opposed it in the only two of my cases in which it was involved was ignored. Politically, of course, the selection of that group and the photographs could be described as blunders. It was not surprising that I should then have been unaware of the possibility of such a reaction. As far as the governor was concerned, he not infrequently acted on the impulse to gather his friends around him without considering how the incident might be misinterpreted, a habit which was one of his most attractive characteristics.

At that time I had no experience which, in a technical sense, could be called political. I had held no public office and I had never worked my way through a party organization in the manner regarded by regulars as a prerequisite to office-holding. Though my appointment elicited enthusiastic commendation from a large circle of friends, and favorable comment from a still larger circle of acquaintances, it was viewed with something approaching disgust by many of the men in control of the Republican organization. In the light of the experience which I now have behind me, I can fully appreciate the point of view of those stalwarts who were outraged by my appointment. There is, in fact, even more to be said for their attitude than there is for the opposition of the West Pointer to the commissioning of a civilian whose military training has been irregular. To them, my political training was not only irregular; it was nonexistent. In their opinion I had given no service for the great reward I was accepting. My leadership in the fight outside the Senate against unconditional acceptance of the League of Nations, my service on the Commission on Consti-

tutional Amendment and Revision, my efforts in 1915 and 1916 for national preparedness, my activities as chairman of the Pennsylvania Council of National Defense meant nothing to them. Unlike the majority of them, I had not worked my way up by serving on ward, city or state committees, assuming the responsibility of ward or division leadership, sitting in city council or in the state legislature. I had never been in a position to dispense patronage and thus build around me a following of loyal dependents, ready for delivery to any candidate. The man I was succeeding had worked his way to his high position through the successive stages of party promotion, and until the day of his death continued to maintain contact with his city ward while dealing effectively with great national and international questions. Senator William E. Crow, the other incumbent, was a distinguished and powerful leader, who at twenty-five had been secretary of his county committee and from that starting point had moved onward and upward to the chairmanship of the Republican State Committee and to a seat in the United States Senate. But I was, to the regulars, an outsider, a novice, an untrained beneficiary of rewards which I had never won.

There was, as I have said, much in favor of their viewpoint. Certainly, had I been able to boast the type of experience which they regarded as a prerequisite, I should have avoided many errors in political strategy which I was later, with more or less justice, accused of committing—errors which reacted to my disadvantage.

Many commendatory newspaper editorials and public utterances pointed out this absence of political background as a point in my favor. That kind of indorsement, however, though helpful in many ways, served to

accentuate the distrust felt by regular organization workers. It put me in the category of opponents of the organization, and started me on my political career looking like an enemy within the ranks.

This became evident when, a few days after my appointment, I received a visit from the late State Senator Edwin H. Vare, leader of the Philadelphia organization, and his brother William S. Vare, then representative, afterward United States Senator-elect, who defeated me in the primaries of May, 1926. After a bit of formal and desultory conversation they asked bluntly for a statement of my attitude toward the organization. I was similarly frank in my reply. "I am," I assured them, "a party man, a strict Republican, and a believer in the effectiveness of intelligent and conscientiously administered organization, whether in industry or politics."

That, it seemed, was hardly enough, and we turned to the topic which is uppermost in every political leader's mind—namely, patronage.

"While," I added, "I will in no way surrender my independence of action on matters affecting either votes or appointments, it will be my policy to consult the organization leader in any county from which an appointment to Federal office is contemplated before giving my indorsement."

To this, however, I made a specific exception. It was that in cases affecting the appointment of Federal judges political considerations should not enter. It has always been my settled conviction that judicial office must be entirely free of politics. Long before my appointment I had indorsed Charles L. McKeehan for the Federal bench in the Eastern District of Pennsylvania. I knew he had no hope of organization support, but I told my

callers bluntly that I meant to support him. Recognizing my position, they acquiesced, and, apparently as an evidence that the talk had been satisfactory, Senator Vare reached into his vest pocket, drew forth a cigar and silently handed it to me. It flashed upon my mind that here was the political equivalent of the tender of the pipe of peace, and I accepted it in that spirit.

After a few more minutes of casual conversation my visitors departed. But there was a parting shot—or possibly a warning. At the doorway Senator Ed Vare paused for a moment.

"Senator," he said to me—somewhat ominously, I felt—"this isn't a personal matter. But we are organization men first and last, and there's something I think you should know. It is that with our power over the organization we can send anybody we want to the United States Senate—anybody." He was not boasting. He was stating what he believed to be a simple, incontrovertible fact. And I cannot say that he was wrong.

The quality of the organization support thus offered became more evident a few weeks later, when Representative William S. Vare gave a dinner in my honor in Washington. At the table were assembled not only members of the Pennsylvania delegation and state political leaders but several notable members of Congress from other states, among them that distinguished veteran, Uncle Joe Cannon, and Martin B. Madden, of Illinois, chairman of the important House Appropriations Committee. To me, the most significent address of the evening was made by Senator Ed Vare. As accurately as possible, I quote an extract from memory:

"Of course," said the Philadelphia leader after referring to the circumstances of my appointment—"of

course, my brother Bill was my choice for this place. I think he has the best qualifications and deserved the appointment. But we have thought it all over, and since the governor has seen fit to name somebody else, we've decided under all the circumstances to be for Pepper."

It was a sincere and honest statement, not spoiled by conventional compliments to a new appointee or tinged with unreal sentiment. Naturally it left me with the strong, and later justified, impression that I might have to reckon with the Vare organization in the future.

Washington and Capitol Hill were more or less familiar terrain to me. My previous contacts with the Capitol had been of three kinds: First, as a member of the bar of the Supreme Court of the United States; second, as counsel for Gifford Pinchot in the famous Ballinger-Pinchot controversy over national resources during the Taft Administration; third, as a representative of Pennsylvania in matters connected with the national defense during the war. I had also established relations with a large number of men in the Senate at the time of the nation-wide controversy over ratification of the Versailles Treaty and proposals that the United States become a member of the League of Nations. I had known personally every President from Cleveland on, enjoying personal friendship with both Roosevelt and Taft.

In view of these contacts it could not be said that I was unfamiliar with the navigation of the ship of state. But now I was to leave the promenade deck to penetrate into the mysteries of the engine room.

The value of my friendships in the Senate at once became evident. It is the custom for the sitting colleague to escort a new member to the desk to take the oath of office. Because of Senator Crow's serious illness and

necessary absence, Governor Sproul had requested Senator Walter E. Edge, of New Jersey, to act as my sponsor. At the last minute, however, the late Senator Henry Cabot Lodge, of Massachusetts, Republican floor leader, was good enough to volunteer to perform this service himself. Senator Edge yielded to him in obedience to that canon of seniority which explains so much that happens in the Senate.

After the ceremony I found myself the member of a body which contained more diverse types than any group of comparable size that I have ever known. No two of the ninety-six senators resembled each other, even remotely. Looking backward, I find myself thinking first of those who, because of death or political disaster, are no longer in the chamber. Senator Lodge, justly entitled to be known as the Scholar in Politics, was a reservoir of exact information on subjects relating to senatorial precedents and traditions as well as on English and American history and the intricate workings of the machinery of government. I have never met a man more familiar than he with the whole range of English literature. The Senate restaurant has an inner room where senators only are admitted, and in this room are several tables to which certain men gravitate in obedience to some unwritten law of political affinity. Over one of these tables Senator Lodge presided, and I found myself accorded a place at it along with such men as George H. Moses, of New Hampshire; William P. Dillingham, of Vermont; Frank B. Brandegee, of Connecticut; Frederick Hale, of Maine; Medill McCormick, of Illinois; and James E. Watson, of Indiana. The group frequently varied, but at all these luncheon gatherings, in spite of the frequent interruption of quorum calls and summonses

to vote on pending measures, Senator Lodge's conversation on literary and historical topics was to me delightful. I remember referring once to an impressive utterance by a Speaker of the House of Commons during the reign of Charles I that I had recently come across in a book. I had forgotten the speaker's name. Senator Lodge immediately supplied it and commented most interestingly upon his life and work. On another occasion, when Margot Asquith, during her tour of the United States, was entertained at a luncheon given by Senator McCormick in his offices, Senator Lodge and I were fellow guests and sat on either side of her. She spoke of a Kentucky feud shooting then reported in the newspapers, and seemed both amazed and shocked that such affairs could occur. I ventured to suggest that, as a woman of Scotch descent, she might recall similar feuds among the clansmen of her native land, and quoted briefly from Aytoun's Execution of Montrose, a ballad I had learned in childhood. The reference was unfamiliar to her, but Senator Lodge not only capped the quotation but carried it on through many lines with verbal accuracy and great appreciation. On the floor Senator Lodge always spoke to the point, and often with force. One does not remember him, on the whole, however, as a great debater.

No member of the Senate in my time approached in eloquence John Sharp Williams, of Mississippi, who declined reëlection when his last term expired in 1923. When conditions were to his liking Senator Williams occasionally burst into speech which for clarity of thought, purity of diction and cogency of presentation entitle him to rank high among American orators. His sarcasm, when roused, could be devastating, as many senators who crossed him well recall.

A unique figure in the chamber at that time was the veteran Knute Nelson, of Minnesota, then in his eightieth year. When I was presented to him after entering the Senate, he drew me aside to tell me that he well remembered a relative of mine who had appeared before the committee holding hearings in the Ballinger-Pinchot case, of which he was chairman, and had often wanted to see that man again to apologize for what he later felt was rudeness in interrupting his argument. I told him I was the man he had in mind but that there was nothing to apologize for. He insisted, however, on making the belated apology and we developed a friendship which continued until his death. Medill McCormick, politically experienced, mentally brilliant and by nature thoroughly equipped for the work of the Senate, was another whose friendship became to me a cherished possession. His untimely death following upon his defeat in the Illinois primaries in 1924 added one more to the long list of United States senators who during my time went to their deaths with hearts broken by political reverses. Frank B. Brandegee, of Connecticut, with one of the keenest minds in the Senate, was at his best in the committee room or in conference. His power of analysis was amazing, and the dry New England humor with which he reenforced his points made him a man to fear, if you differed with him and were susceptible to shafts of ridicule.

These men and many other valuable public servants like James W. Wadsworth, Jr., of New York; Carter Glass, of Virginia, and David A. Reed, later my colleague from Pennsylvania, never lost sight of the issue before the Senate or suffered themselves to make voluble speeches for the sake of impressing constituents at home.

There were, however, men in the Senate then—and I observe that there are still such—of whom this cannot be said. To a lawyer fresh from the courtroom nothing could be more amazing than the absence of any compelling rule of relevancy or of any felt obligation to stick to the point before the Senate. I shall never forget the bewilderment with which I first listened to hours of talk on subjects not related to any matter on which the Senate was about to act, the speaker being obviously satisfied to gain applause from the galleries or to pose in the pages of the Congressional Record as the champion of some cause which he thought would be popular at home. Fairly early I learned to distinguish between senators who went about their legislative labors as if no spectators were present and those who seemed to derive their greatest satisfaction from the presence of a listening throng. Some members of the latter class, on entering the chamber, immediately raised their eyes to the gallery, apt to be occupied by a number of the most attractive women in Washington, and appeared to be either elated or depressed by the result of their searching scrutiny. The habit invariably recalled my rowing days and the coach's injunction, "Eyes in the boat!" addressed to those of the crew who were fond of casting glances at feminine figures along the bank.

Although I was not unfamiliar with senatorial methods and responsibility, I learned with amazement the tremendous amount of work apart from activities in the chamber and in committee which falls on the shoulders of a senator, and, at times, to the lot of the much-criticized Upper House as a whole. I soon learned that the very nature of the Senate makes inevitable such criticism from those who overlook the fact that occasional

obstruction may be outweighed by continued performance. To realize why this should be it is necessary to understand the constitution, the personnnel and the peculiar duties and responsibilities of the United States Senate itself.

## II

# THE SENATE AT WORK

THE United States Senate is a body of men, two from each sovereign state, who are charged with several important duties. Among these is the duty of acting as a check upon the President and upon the House of Representatives. The Senate is a court for the trial of impeachments; but happily it is seldom necessary to discharge this function. The Senate can originate most kinds of legislation; but all that it can do in that regard can also be done by the House. Its function as a check upon executive and legislative action is its most distinctive function. This means that the Senate can seldom enjoy popularity. To reject a treaty or a nomination submitted by a popular President is an ungracious task. To obstruct or defeat legislative measures approved by the most numerous branch of the Congress is to invite widespread criticism and protest. If, however, senators fail to think for themselves or fail to carry their thought into action, they are not giving the Constitution of the United States a square deal. Their independent thought and action are essential to its integrity.

A body which can thus assert itself in pretty much every important transaction of government is necessarily an influential body. Even if never loved and seldom liked it must always be reckoned with. The constitutional functions of the Senate were intended by the framers to be performed by men of marked characteristics. They were

to be few in number. They were to represent the states, as such. They were to have long terms. They were to be such men as a legislature might choose, even if they were not "good mixers" and would fare badly in a popularity contest. It was altogether in keeping with this conception that senators as individuals should develop a tendency to take themselves rather seriously. Unrestricted debate necessarily had its place in such a scheme. Even the use of unlimited debate as a means of obstruction was natural enough in a body whose very existence was a standing invitation to self-assertion.

Precisely because checks on action are often unpopular there has always been a popular tendency to denature the Senate. This tendency has recently acquired much momentum. "Senator," said an old Capitol employee with whom I once chatted, "it's strange how customs have changed around this place. You and I are talking like friends; yet when I first came to the Capitol any employee who spoke to a Senator without being spoken to would have been laid off for a month without pay." "In those days," he added, "the leaders of the Senate were very choosy as to which of their colleagues they would ride with in an elevator." Senators are still few in number. They still have six-year terms. But they must now be the kind of men who can win in a state-wide primary and in a general election. Moreover, their procedure is expected to be such as to facilitate action and to make obstruction impossible. The Senate of today best pleases the country when it converts itself into an additional cylinder in the executive and legislative engine or becomes an accelerator instead of a brake. Many of the critics who protest against deliberate action on the part

of the Senate are not interested in brakes. They want to step on the gas.

In recent years there has been wide discussion of proposals to amend the rules of the Senate in the interest of limiting the debate and suppressing the filibuster. To that discussion I made during my term a small contribution. It is my own conviction that if the Senate as now composed cannot be trusted to use the filibuster in such a way as to keep the country's respect and confidence, then the best thing to do is to make a serious effort at internal reform. If the people of the United States want, or think they want, senators merely to be six-year congressmen sitting in a separate room and if they want, or think they want, the Senate merely to rubber-stamp treaties and nominations and to register approval of House legislation, this is some evidence that senators by their conduct have failed to justify the original conception of the Senate. If the people are impatient with senatorial self-assertion, their impatience may be due, at least in part, to past abuses of senatorial prerogative.

All this has to do with the Senate in its constitutional aspect. A visitor in the Senate gallery is not apt, however, to be much concerned about this phase of the subject. He is, perhaps, merely an idler gazing down upon the Chamber as his like in big cities are wont to gaze by the hour at men working in the excavation for a big building. Or he may be in the mood of the spectator at the play or before the screen or upon the bleachers. He may be a bewildered student striving to follow an incoherent professor. Occasionally he (or she) is a thoroughly informed and highly sophisticated observer of all that happens. For all kinds of visitors the Senate Chamber seems to possess a perennial fascination.

Down in the excavation the individual senators, each according to his temperament, are obviously more or less sensible of the presence of this cloud of witnesses. Those who have the capacity to entertain the gallery are constantly tempted to perform. Those who lack this capacity are frankly contemptuous of their performing colleagues. All this is obvious even to the casual observer. It is, however, by no means easy for him to perceive what is back of it all. If a spirited debate is in progress or if a record vote is being taken it is simple enough. If, however, a solitary senator is monotonously reading a speech to empty chairs, the visitor wonders, not why the chairs are empty, but how the speaker has the nerve to persevere. The visitor should reflect that the speaker's reward comes after the magic of the official stenographers and of the Government Printing Office has turned out a neat pamphlet containing his words of wisdom. The pamplet is then secured by him in quantity and at very moderate cost and is franked through the mail to the senator's more or less appreciative constituency. This, he hopes, will picture him as commanding the applause of a listening Senate. There are three possibilities in the incident. It may help his chances of re-election. It may prove a costly political blunder. It may merely augment that mountain of unread printed matter which hopeful advertisers and long-suffering tax payers are always coöperating to pile up.

If a proposed Act of Congress is under discussion, the visitor may feel sure that the measure has already had a long preliminary history. Either a member of the House or a senator has had an idea. It was the child of his own intellect or he has agreed to father the intellectual offspring of another. That other may be the head of

an executive department of the federal government eager for needed legislation, or an important group of constituents who readily identify their desires with the public good, or the indefatigable executive secretary of a single-track organization which has reduced its hobby to legislative form and has given the representative or senator no peace till he has consented to start the bill on its legislative journey.

Before reaching the Senate calendar the measure, if it be a House bill, must, of course, have passed the House and must have been "messaged" to the Senate by the dignified House Clerk who suddenly appears at the doorway opposite the chair of the President of the Senate and as suddenly disappears after being recognized by the chair, announcing himself as the bearer of a message and handing the document to the equally ceremonious Senate Clerk. The same formality is observed when a secretary of the President of the United States appears. It is good form for the occupant of the chair to rise when he recognizes the clerk or the secretary, thus showing formal courtesy to the other House or to the Chief Executive. Whether it is a House bill or a Senate bill that is under debate, it must have been referred to the appropriate Senate committee where its period of incubation may have been tranquil or turbulent, brief or prolonged. Once reported out by order of the committee, it has appeared upon the Senate calendar. Optimistic friends accordingly look for prompt passage. The more sophisticated shake their heads. There are many more bills on the calendar than can be considered and acted upon. Some system of priorities must be resorted to. The majority party, responsible for the organization and functioning of the Senate, must, through its steering com-

mittee, report a suggested order of immediacy and importance. The bill which our visitor is observing must have commended itself to the steering committee, or else the Senate itself, by a majority vote or by unanimous consent, must have agreed to begin its consideration. At any rate it is now before the Senate and speeches for and against it are being made.

Perhaps the bill is one favored by a majority of the Senate. Perhaps it has been considered in party conference by Republican senators or by Democratic senators. Possibly the Republicans have determined to support it and the Democrats to oppose it. The hopes of the parents of the measure now run high; the supporters are clearly in the majority; the bill will surely pass. Again the more sophisticated smile at their assurance, for they have perhaps scented a minority filibuster. This means that a resolute minority have agreed among themselves to talk the bill to death. Our visitor is stunned by the warning that the bill is likely never to reach a vote.

"But I thought," he exclaims in astonishment, "that General Dawes had killed the filibuster." It is explained to him that the former Vice-President had merely voiced a long-lived popular complaint and that, so far, a great majority of senators have expressed lack of sympathy with the proposal to change the rules. It is further explained that, if a change is actually attempted, the filibuster may be invoked to save its own life.

While the visitor waits with interest to see whether or not a filibuster against the bill will develop, it may be worth while to remind him of the vast amount of work which has been done upon the pending measure by the committee which has had it in hand. It will be little short of tragic if all this work goes for nothing.

These committees are the agencies through which the Senate does its hardest work. When the Senate convenes each day at noon many committees have been meeting during the morning hours. Sometimes the meetings continue while the Senate is in session. Sometimes there are evening committee meetings. There are often open hearings. Sub-committees are appointed to consider and report to the whole committee upon particular measures. There is sometimes filibustering at the committee meetings as the result of the determination of a minority to prevent a favorable report from the committee to the Senate. The committee chairmanships are positions of influence. They are by custom allotted to senators of the majority party by the joint operation of the principle of seniority of service and the rule that no senator shall be chairman of more than one committee at a time. The seniority principle is often challenged. Here, as always, it would be better, if possible, to substitute an ideal system which should always result in the choice of the best man. The practical question, however, is whether the frictionless operation of seniority is not on the whole to be preferred to a free-for-all contest in which success might readily perch on the banner of a lovable incompetent or of a liberal maker of political promises.

While the debate proceeds the visitor may notice that the senators present treat their colleagues with varying degree of respect. He may be led to inquire what makes a senator influential. Influential senators derive their influence from several sources. The most productive of these sources, however, is undoubtedly faithful and intelligent attention to committee work. The man who knows his subject commands the attention and respect

of his colleagues whether he has or has not the qualities that make the headliner.

A working senator's most difficult problem is to utilize scraps of time and to remain serene amid constant interruptions. One member has expressed it by saying that a senator is expected to do simultaneously the work of a college professor and of a bell-hop. Visitors from one's own state are numerous, if the state is large and near at hand. They are, and ought to be, welcome; for, after all, the visit is a compliment to the senator. When a senator leaves the floor upon receiving a visitor's card he may find that the call is purely social, or that the visitor covets a seat in the Senators' Gallery, or is the bearer of an invitation to speak at a banquet, or desires to press for action on a pending bill, or is willing to make the supreme sacrifice involved in accepting a salaried job. Often the visitor is the representative, paid or unpaid, of an organization which exists to promote or to obstruct a particular measure. The number of organizations of this sort is very great. They maintain a steady and, occasionally, an effective pressure upon those whom they select as hopeful prospects. Calls to the long-distance telephone or to the cloak-room come many times a day. So do requests from newspapermen to repair to the appointed trysting place outside the Chamber and there answer interrogatories respecting a pending bill, a proposed speech, a rumored appointment or the reason for a visit, paid or to be paid, to a cabinet officer or to the White House. There are days when it is literally impossible to remain in one's place in the Senate for as many as five consecutive minutes. A representative is a privileged visitor and it is an agreeable part of a senator's duty to discuss with him some pending measure in which

both are interested, or some matter of political concern in the state from which both of them come. Colleagues stop as they pass one's chair to make a request or drop a summons to the cloak-room for consultation. When there is a momentary lull in the interruptions the Presiding Officer may request a senator to take the chair for a while, in order that he himself may keep an engagement.

In addition to the committee meetings there are the party conferences to be attended. To these are invited all senators who are recognized as being in good standing in the party in question. The test of eligibility for conference applied by Republicans at the last session while I was a member was the attitude of individual senators toward the party candidates in the presidential campaign. Because they had worked against the nominees of the National Convention in 1924, no invitations to conference and no new committee privileges were accorded at the following session of Congress to Senators La Follette (the elder), Ladd, Brookhart and Frazier. Such disciplinary action, however necessary, is of course temporary in its consequences. After time had closed some wounds and death had claimed two of the four men affected by the action, the others were reinstated.

Such meetings are either caucuses or mere conferences. If a caucus, it is understood that all who participate will subsequently act on the floor of the Senate in accordance with the majority vote in the caucus. By the action of a conference nobody is bound. The Democratic senators make large use of the caucus. Meetings of Republican senators are nothing more than conferences. There is too much independence of thought and action among Republicans to permit of the use of the caucus by them. There are the usual differences of opinion respecting the

value of conferences. During my membership the Republican leader, Senator Curtis, was a believer in conference and made liberal and effective use of this method of promoting teamwork. Some senators (like Senator Borah, for instance) derived little satisfaction from conferences and seldom attended.

The senator's office is his work-shop. To each senator rooms are assigned in the Senate Office Building. The assigning body is the Committee on Rules, which applies the seniority principle in allotting rooms of varying degrees of desirability. Each committee chairmanship carries an additional room, or suite of rooms, and these committee rooms are for the most part in the Capitol. The manner in which the senator's office is run is, of course, determined by his previous training and by the volume of his business. The office of a senator from a large state is besieged daily by callers. Pennsylvania, for example, with its more than 9,000,000 inhabitants demands much. Its interests are varied and great. Industrial, commercial, mining, financial, railroad, shipping, agricultural, labor, professional, educational and other fields of human endeavor are important factors in its relations with the Federal Government. Its proximity to the District of Columbia helps to bring a closer contact.

The office of a senator from Pennsylvania or other similarly large state must handle a great volume of business. During the period that a Congress was in session my mail ranged from three hundred and fifty to five hundred letters daily, and on occasion mounted to a thousand or more. These letters called for some form of reply—information to be supplied or service rendered. My offices were almost constantly filled with visitors, the

majority coming to discuss important matters. The local and long-distance telephones were in constant use.

The senatorial office thus becomes something of a clearing house. Tariff perplexities, taxation problems and revenue complications come to it continuously. The busy manufacturer or merchant, intent upon his own creative efforts, can afford to give but little of his time to the study of departmental practices. In the emergency he turns to his senators. So, too, it becomes a duty to aid former soldiers in their dealings with the Veterans' Bureau. In a like way, a senator is consulted about special cases in the immigration office and in the issuing of passports. It is quite safe to say that a senator's office is brought daily into touch with every branch and department of the Government. I recall a request once made for my coöperation in having a branch revenue office established in the town of Red Lion, York County. Few persons, even in Pennsylvania, knew that the community was then and is still one of the largest cigar-manufacturing centers in the United States, the volume of business running into millions of dollars annually. When the facts were brought to the attention of the Treasury Department the branch office was promptly established.

Appointments to places in the Federal service, furnishing data and information on a multitude of subjects, and the courtesies that can be extended to constituents visiting the capital on business or pleasure are part of the routine. They are aside from the subject of lawmaking. Many of the things a senator's office handles have no official connection with the business of government. Not a few are of a deeply personal character, touching the joys and sorrows of human existence.

So heavy is the volume of such business that the ad-

journment of Congress permits but a slight reduction in the staff. During my incumbency pressing matters called me to the national capital at least once each week during the recesses, and every day I was in touch with the office by telephone.

Nor do the legislative duties come to a close when the gavel sounds the end of a session. Committee work goes on. There are inquiries and hearings and the gathering of information upon which the new Congress can act. There are appeals for pardons, and requests for paroles. There are confidential communications with the executive branch of the Government. One of the interesting phases of a senator's life is this opportunity for contact with the members of the Cabinet and of the Diplomatic Corps and with the President. Apart from visits paid with constituents who have various reasons for calling, there are many occasions for visits of a more or less formal sort. The President is wont to consult the senator from a state in which an appointment to office is about to be made, if it happens that the senator is of his party. A senator desiring to press a constituent upon the President's attention with a view to appointment calls on the President for that purpose. Occasionally the President sends for the members of a committee with a view to conference. There are informal breakfasts at the White House to which groups of senators and representatives are invited. At stated intervals there are formal evening receptions.

Senators differ in the frequency of their calls upon the President. Speaking generally, it is a serious handicap for a senator to get the reputation of constantly running to the President with his problems or of wishing to pose as one of his confidential advisers. He is regarded much as would be a college student who after class tries to

cultivate relations with the professor in the hope that thereby his chances of academic salvation will be better. In the case of a shrewd observer like President Coolidge, such conduct undoubtedly appealed to his sense of humor and was most unlikely to achieve the senatorial purpose.

While the two houses of Congress are entirely distinct in organization and operation, there are frequent contacts between a senator and members of the House of Representatives. The senator may be from time to time a conferee on the part of the Senate respecting the legislation as to which the houses are in disagreement. He may have occasion to consult the chairman or members of the House committee corresponding to his own. He may be the chairman of a joint committee of the two houses. The representatives from his own state have close personal and official relations with him both in connection with political matters at home and legislation pending in Congress. A state is fortunate when the relations between its senators and its congressmen are such that together they do teamwork in its interest.

Of course a most agreeable part of the senator's life is his daily association with his colleagues. There is enough of the boy left in even the oldest senator to give to the Senate something of the quality of a class in school. There are a very few enmities, some temporary estrangements, many lasting friendships and a genuine esprit de corps. In my own case the day's work was made delightful by association with a colleague whose companionship was stimulating and whose friendship was a thing to be prized. Senators can take one another's measure with something like exactness. The respect of the Senate is a priceless possession. The contempt of the Senate would be a terrible thing to face. Death and political dis-

aster have made wide breaches lately in the senatorial circle. In not a few instances the sense of personal loss has been so keen as to leave life for the time being gray and sombre for those who remain.

Differing in ability as in other things, it yet soon becomes evident in each case how a senator happened to arrive. There are very few political accidents in the Senate. The average of ability is undoubtedly high, as a member may ascertain for himself if he goes into serious conference with his colleagues or ventures into a debate insufficiently prepared. It is impossible to make a just comparison between senators of today and those who loom large in Senate history. It is much like the attempt to measure modern lawyers against the legal giants of the past. We select a few great names and forget abundant mediocrity. Two things are certain. One is that the problems with which senators must nowadays wrestle have not decreased in number or complexity. The other is that the senators to whom these problems are presented must divide their time between the task of solution and the political work essential to success in open primaries and in state-wide elections. The result is that senators are much more closely in touch with the life of their constituents and more responsive to their will. Whether in the end this makes for better government and sounder statesmanship is a question which each citizen must answer according to his conviction. At present it is a purely academic question. Certain it is, however, that the Senate is no longer Mt. Olympus; but it is also true that Pennsylvania Avenue is a very different thoroughfare from Main Street.

# III

## LEARNING THE JOB

THE Cherokee Strip is the grim designation of those seats in the Senate, on the Democratic side of the aisle, not filled by the minority party and assigned to the Republican overflow. As the newest member I was, by some mysterious process not then understood by me, given a seat on the back row of the Cherokee Strip, with Holm O. Bursum, of New Mexico; Charles A. Rawson, of Iowa; and Samuel M. Shortridge, of California. This was a point of vantage from which to make my initial survey of my colleagues and to observe the sometimes confusing operation of the senate rules. The most conspicuous figure among the senators in my immediate neighborhood at that time was Thomas E. Watson, of Georgia, a curious combination of the cold practicality of the politician and the warm emotionalism of the poet. In contrast to some of his brilliant and sometimes ruthless political maneuvers and attacks on Republican leaders or policies, I remember hearing him deliver in the Senate a two-minute eulogy of a child from his state who had accidentally been burned to death in Washington. It was as exquisite and touching a tribute as it is possible to imagine. It is interesting to recall that when he died in 1922, and Senator Walter F. George had been elected to succeed him, the governor of Georgia, as an act of courtesy to a much-esteemed woman of that state, appointed Mrs. Rebecca L. Felton, who took the oath of office, made an

address of greeting to the Senate, and sat for a day as a senator of the United States. The events of the next few months after this is written will determine whether another woman, Ruth Hanna McCormick, having achieved nomination by an impressive majority in the primary, will be the first of her sex to sit in the Upper House of Congress in virtue of popular election.

On a line between me and the chair of the presiding officer sat Senator Pat Harrison, of Mississippi. My first impression of him was that he had a wicked tongue, which fairly earned him the designation of "party scold." In time I revised my judgment, however, and decided that there was far more humor than malice in the attacks upon the majority party which he launched so frequently as to acquire a reputation not unlike that of the bad boy of the school. Calvin Coolidge, then Vice-President of the United States, was most conscientious in the discharge of his constitutional functions as President of the Senate. One of Pat Harrison's favorite indoor sports was to rise and comment, with sarcasm tinctured with good humor, upon some act or utterance of the Vice-President as reported in the morning papers. As I recall it, an act more frequently than an utterance furnished the basis for the Harrison thrusts, for the habit of saying nothing superfluous was not one which Mr. Coolidge acquired for the first time upon his elevation to the presidency.

Among my Democratic neighbors were Senators James A. Reed of Missouri, and T. H. Caraway of Arkansas. Both these brilliant and able senators seemed to derive the keenest satisfaction from the discomfort of those whom they singled out for attack. Reed's destructive agency in verbal onslaughts might be described as chemi-

cal. It was as if he had thrown acid upon his victim, whereas Caraway's method might be compared to the use, with unerring aim, of a long-lashed whip. He could sting any part of his victim's person which was exposed. Both men were as liable to launch their attacks on members of their own party with whom they happened to disagree on a pending measure as on one of the opposition. I remember one case in which, replying to a speech made by a Democratic senator in opposition to the confirmation of a presidential appointment, Senator Caraway made a most bitter attack, but later, on the request of the victim, consented to expunge his remarks from the pages of the Congressional Record.

Senator Harrison and I were both baseball fans and soon learned that there was at least one subject on which we could agree. After a heated session in the Senate it was a refreshing experience to accompany him to a ball game and root for the Washington team. We both took a keen interest in the baseball nines organized by the senate pages, and I recall at least one game in which he and I were selected to choose and lead the opposing teams.

The able and experienced floor leader of the minority party during a part of my term in office was Senator Oscar W. Underwood, of Alabama. A new senator could not do better than note with care both his bearing toward colleagues in the course of debate and his intelligent method of approach to the question under consideration. His retirement from the Senate meant the loss of one of its most effective members, and his subsequent death seemed to me a national misfortune.

Looking into the faces of my Republican colleagues across the aisle, I had a good opportunity to study them

in both action and repose. Senator Lodge, at that time floor leader, was diligent in the discharge of his duties and quick to lock horns with the Democrats on any issue which seemed to him of major importance. He was, however, inclined to ignore, with something like intellectual contempt, those thrusts of debaters attempting to make political capital out of the discussion which a younger and more vigorous leader would have been quick to resent. Indeed, my observation was that the policy of silent contempt toward utterances that were really contemptible was carried by the older Republican senators too far for the good of the party. It was, therefore, with peculiar satisfaction that I watched the increasing confidence with which, after his induction, my junior colleague, Senator Reed of Pennsylvania, not merely repulsed attacks of this sort but carried the war into the enemy's country and effectively exploded bombs on the Democratic side of the aisle.

Charles Curtis, of Kansas, later elected Vice-President of the United States, was then Republican whip of the Senate, whose duties were to insure attendance of colleagues of his own party when important votes were to be taken, and in general to discourage straggling and maintain morale. After Senator Lodge's death Senator Curtis became Republican floor leader, and in that capacity displayed a remarkable talent for accomplishing good results for his party by what in international parlance are termed "conversations" with the other side. He was unusually adept at making deals.

Before my appointment and subsequent election to membership, I was, of course, familiar with the characterization of the United States Senate as "the reason why desirable things don't happen." There may have

been times when, impatient over the obstruction of important legislation, I subscribed to that definition. I soon learned, however, to admire the soundness of judgment which had prompted the fathers of the nation to take wisdom from history and assure the safety and perpetuity of this nation by creating such a balance wheel or regulatory device as the Senate represents.

Senators, it soon becomes evident to the man who joins their company, should serve the nation as a whole, while at the same time conserving the special or peculiar interests of their own states. The problem for a senator who wants to serve the nation as well as the state is one which only a few solve successfully. After studying for a long time his footprints on the Senate sands, I reached the conclusion that Boies Penrose had been one of these few. This problem, as I have suggested, may be discussed in terms of contrast between a delegate and a representative. The representative ideal is one that commends itself strongly to onlookers who do not themselves hold elective office. The contemporary multiplication of groups of citizens organized for all sorts of purposes affected by Federal legislation tends to make it increasingly difficult for the ideal to be realized by anyone who wants to prolong his public career. Unless a man does the will of these organized groups he successively incurs the resentment of each, and these accumulated resentments can become greater factors in a political campaign than the unorganized good will of those who have applauded a senator's independence.

The senator who regards himself as the representative and not the delegate of his state and his constituency is, of course, bound to respect party policies, but not mere winds of public opinion. If he believes that what is for

the moment the popular side of the question is the wrong side, he is free to express himself, and take whatever may be the political consequence of his action. It is a great mistake for anyone to suppose that party loyalty leaves no room for freedom of political action. In the first place, only a small percentage of the questions which a senator is called upon to decide involve questions of party policy. And in the second place, as to these few, he freely decided in advance to accept the party viewpoint by consenting to stand as the representative of the party. In my own case I adopted the principles of the Republican Party as the result of careful consideration, after casting my first vote for Grover Cleveland. I was not "born and bred" a Republican. My grandfather, George Mifflin Wharton, whose influence was dominant in the household during my boyhood, was a Democrat and, during most of his adult life, one of the intellectual leaders of the party as well as of the bar in Pennsylvania. The party with which I chose to associate myself after my first vote has held my loyalty ever since, and, of course, represented the political principles which when I accepted the appointment to the Senate I regarded as most efficacious for the government of our country.

Whatever might be the conception of their office entertained by participants in a debate, it soon became evident to me that the scattering fire of debate on the floor of the Senate during the course of an attack on legislative problems was more noisy than effective. The committee room, I soon realized, is the real battleground in which the struggle over legislation takes place. The measure of a senator's greatest usefulness must be taken when he is in committee, although the popular verdict is apt to be determined by his performances in the open

Senate. Of the standing committees of the Senate, a few are regarded as major committees, among them Finance, Foreign Relations, Judiciary, Interstate Commerce, Privileges and Elections, and Rules. There is also a Committee on Committees whose function it is to decide which senators shall be assigned to the various committees. The workings of this committee, like that of the Committee on Rules—which dispenses the quaint system of Senate patronage—are to some extent subterranean. As a general thing the new senator finds himself assigned to committees without a very clear idea as to how the result was accomplished. If he lacks a spirit of self-assertion, he may go through his entire senatorial term accepting without demur such assignments as are handed to him. If he has the requisite determination to advance himself in committee service, he can accomplish much by persistent pressure on the Committee on Committees, and he may accomplish still more by protesting in party conference against decisions by the committee which he has not succeeded in influencing in any other way. Looking backward upon my own assignment to the major committee on Foreign Relations, which came after almost two years of Senate service, I am inclined to think it resulted less from such qualifications as I may have possessed than from the effective insistence of my colleague, Senator Reed, that I should be assigned to this position at the same time that he became a member of the important Finance Committee.

Because these major committees can exercise so important an influence on domestic legislation and international affairs, responsible party managers would be derelict if they did not scrutinize anxiously the qualities of every ambitious applicant for an assignment. Some indication

of what must have preceded the decision to allot me a place on the Committee on Foreign Relations was disclosed by Senator Brandegee when I expressed to him my satisfaction at having become in this connection a colleague of his.

"We'll be glad to have you with us, Senator," he replied, "if you'll remember always, while on the committee, to rely on your brains instead of your emotions."

As every citizen knows, the complex rules and methods of procedure which frequently puzzle visitors to the Senate or other legislative body are really necessary to achieve the highest efficiency. Obviously it would be impossible for the Senate sitting as a body to consider or act upon bills in bulk. Too much confusion would result; too little progress could be made. Hence the system of establishing committees to which the various bills are referred. Sometimes the measures remain in committee to die with the closing of Congress. I recall a most picturesque description of this fate once supplied by Senator Magnus Johnson, former Farmer-Labor senator from Minnesota. I had asked him casually how his measures were progressing.

"Well, Senator," he replied, with that touch of homely humor which was characteristic of him, "I have a lot of ground-hogs in their holes, but I can't drive them out."

Perhaps I can best illustrate the devious course of an idea in the process of being translated into law and the influences operating upon senators responsible for its passage or defeat, by describing the tariff bill passed during my first few months in office, a process which will undoubtedly be repeated as each new administration comes into power.

Before a senator is called upon to take official cogni-

zance of the tariff bill, the measure has passed through a stormy voyage in the House. Most of the industries affected by the schedule have declared their attitude at hearings before the House Committee, in organized propaganda through the press or elsewhere, and by direct pressure upon individual representatives. Having passed the House, the measure has come to the Senate and has been at once referred to the Finance Committee, individual members of which, with a self-assertion characteristic of the Senate, contrive to let it be known that they propose to rewrite the bill. What this really means is that the struggle over each schedule begins again, and the House battle is fought once more, complicated by the injection into the tariff controversy of any extraneous considerations which happen to be present in the minds of senators. These, by irrelevant amendment, can always be brought into the pending controversy.

In this way the tariff problem, complicated enough in itself, can be rendered altogether insoluble by a proposed amendment referring to agricultural finance, naval preparedness or international relations. Many such amendments are offered merely for the favorable effect produced upon the constituents of a senator who happen to be interested in the subject-matter of an amendment, and with frank recognition on the part of the proposer that the amendment can never prevail in the Senate, or, if it does, that it will be thrown overboard when the conference committee between the two Houses finally addresses itself to the task of scraping barnacles off the bottom of the bill and cleaning it up so that it can glide through as a legitimate tariff measure.

When the tariff bill is before the Senate Finance Committee and hearings are in progress, a senator's day is a

busy one; particularly if he represents a large industrial state. Upon reaching his office early in the morning he finds waiting in the anteroom various representatives of the industries vitally interested in the schedules to which the committee will in sequence give its attention. Among the visitors the senator expects to find presidents or other executive officers of industrial corporations. In most instances these men will be from his own state, unless, because of professional reputation or other basis of confidence, his assistance is sought by concerns doing business elsewhere. He finds, also, the secretaries or other agents of groups of manufacturers who have organized in order to exert cumulative pressure. He may find the resident Washington representative of absent industrialists, who either is or pretends to be a profound economist willing to share his knowledge with the senator in the interest of saving American industry, or a person who exudes mystery and gives the senator to understand that he has a subtle influence over the votes of enough members of House and Senate to enable him to accomplish the particular purpose which he has in view. This type of visitor usually refers casually to senators, cabinet members and others in official Washington by their first names. His unspoken suggestion is that the party on the band wagon is all made up and that out of his bounteous good nature he is simply offering the senator a chance to get aboard.

It is natural enough that the comprehensive term "lobbyist" should be popularly applied to all these visitors. In point of fact, however, the nature of their several activities is diverse.

From the man who intelligently presents the facts in regard to his industrial problems the senator gets invalu-

able help. He soon learns to distrust the political economy of the visitor with the professorial air, and he quickly identifies as a nuisance the mysterious individual, who fails to fool him, no matter how completely he may have hoodwinked the concern that is unwisely paying his Washington expense account. If the senator has a thorough understanding of the problems involved, he treats each schedule as an object of separate study. By persistent questioning he ascertains the facts and finally disinters the real issue, on the one hand, between those who desire to increase the existing duty and those who desire to keep it as it is; and, on the other hand, between those who desire to reduce it and those who desire to transfer the commodity to the free list.

It is a great mistake to suppose that there is anything like unanimity in regard to raising or lowering duties, even among those who are popularly regarded as representatives of the industries with a common interest in tariff protection. In Pennsylvania, for example, immense quantities of tobacco are grown. This tobacco is for the most part of the quality used in the filler in the manufacture of cigars, whereas the leaf used as a wrapper may be imported from Sumatra or elsewhere. In Connecticut the shade-grown tobacco produces acceptable wrappers, with the consequence that the Republican tobacco growers in Pennsylvania would like to see the foreign wrappers on the free list, and the Republican tobacco growers in Connecticut would not object to a prohibitory rate placed upon them. The same Republican senator sitting as a member of the Finance Committee and holding the closest relations with a senator from Pennsylvania and a senator from Connecticut receives through one ear, then through the other, conflicting suggestions

which must be reconciled somewhere in the space between. On several occasions, for example, it became my duty to bring Pennsylvania tobacco growers into contact with the extremely able senator from Connecticut, George P. McLean, who, as a member of the Finance Committee, performed with fairness the difficult task of finding a compromise rate as between the claims of his own constituents and the tobacco growers of other states.

Nor is it merely between diverse interests of this sort that the tariff problem becomes acute; there is also the struggle between Eastern seaboard manufacturers who use a raw material produced abroad and the producers of that same raw material which happens to be found, let us say, on the Pacific Coast. The Eastern man would like to see that particular material on the free list, because he shrinks from paying the increased cost resulting from the transcontinental freight rate; whereas the Pacific Coast producer wishes to use the tariff schedule in such a way as to run up the cost of the foreign articles and thus compel the Eastern manufacturer to buy his product with the freight rate added to the price. These and a thousand other considerations of which the general public takes little account are the factors which make the framing of a tariff act so difficult today and may, in time, render tariff making impossible.

Sooner or later the senator becomes aware of an issue more subtle and more serious than any of those discussed above. He begins to perceive that in the fight over the tariff bill the real struggle is one between the East and the West, and that the senators from the western states are desirous of overcoming the advantage of position enjoyed by long established industries, by bringing about some constructive advantage for the West where this is

possible or by dealing destructive body blows at eastern industry when they find they cannot serve constituents in any other way.

The next stage in the process of tariff-bill enactment is reached when the senator determines what his own stand shall be on the schedules under immediate consideration. If he is not a member of the Finance Committee, he is, nevertheless, on request, accorded the privilege of appearance before that body to present such arguments as he chooses to advance. The hearing accorded him is either respectful or perfunctory, according to the measure of his ability to make a real contribution to the solution of the committee's problem. The popular impression that, merely because he is a colleague of the committee members, he can exercise an occult and decisive influence upon them is, of course, a mistake, if for no better reason than that a great number of other colleagues are simultaneously exercising the same occult influence in opposite directions.

When the committee finally reports the bill back to the Senate, a work of herculean proportions has been accomplished, and the wonder is, not that the measure contains so much to criticize but that, in view of the volume and complexity of the task, the thing should have been accomplished at all. Once upon the floor of the Senate for debate, some of the contentions unsuccessfully made before the committee are revived. These are sometimes presented in speeches which differ strangely in tone from the way in which the matter had been calmly and persuasively—though unsuccessfully—presented in the committee room. The unsuccessful senator may now stand disclosed as an assailant who attacks the action of the committee not merely upon its merits but for the edi-

fication of spectators in the galleries and of readers of the Congressional Record, on the theory that the decision of the committee was determined by all sorts of promises discreditable to committee members, including the inevitable suggestion that they acted under orders from Wall Street. My own experience has convinced me that far more effective, as far as changing the schedules is concerned, is the senator who takes the trouble to reduce the question at issue to the form of a temperate, concise and cogent brief, and causes this to be distributed during the debate among those senators on both sides of the chamber who have not entirely forgotten that the country as a whole has an interest in the pending controversy and that it is not exclusively a private matter between the industries most directly affected.

Not only in connection with tariff making but in regard to all legislation that senator is most effective who both understands his subject and refrains from wounding the susceptibilities of colleagues who differ from him. A bitter attack by a well-informed partisan may delight applauding constituents but it may alienate the votes by which alone he can attain the result that he and they desire.

Not only on the floor of the Senate but in committee as well, there must necessarily occur those adjustments between contentions which, when made the subject of criticism, are condemned as logrolling, and, when understood, are often seen to be legitimate and highly desirable compromises.

After the Senate has acted on the bill as reported by the committee, the measure follows the course always taken by bills respecting some of the features of which the House and Senate differ. Conferees are appointed by

each branch, and these invariably include the chairmen of the appropriate committees and ranking Republican and Democratic members of the same committees. The conferees meet in seclusion. No outsiders are present. Hopeless disagreement may result, but far more often a report is agreed upon. This report comes back to the two houses and, as a matter of high privilege, its consideration takes precedence over other business.

When the final vote is taken on the conference report the result is entirely satisfactory to nobody. Those who see in the measure a preponderance of good, vote for enactment. Those whose political conviction or local self-interest requires them to do so cast their votes in the negative. A few men with a taste for the dramatic seize the opportunity to arise and, Ajax-like, to proclaim their fundamental faith in a protective theory, but their unwillingness to cast votes for the perverted and destructive measure which threatens the welfare of masses of Americans for the sordid advantage of all-powerful special interests.

After the bill becomes a law through the signature of the President, and after it has been in actual operation for a sufficient length of time, a senator may derive a certain amount of satisfaction from noting how, one by one, the forensic prophecies of disaster made in his hearing are falsified. Somehow or other, exports increase instead of diminishing; the public treasury is replenished beyond the expectations of most sanguine advocates of the bill; the poor do not become appreciably poorer or the rich appreciably richer. A few industries suffer, a few are unduly benefited, and the country continues upon its career of prosperity.

During the greater part of the tariff discussion in

1922, I was the only active senator from Pennsylvania, for Senator Crow, my senior colleague in the body, was seriously ill. To me, his absence meant great responsibilities. I missed not only his personal coöperation on the floor and in committee but his profound knowledge of men and political situations in Pennsylvania which could have smoothed out many of the difficulties faced by a new senator. His death at his home near Uniontown, on August 2, 1922, was a tremendous loss to his state, as was eloquently testified by the great numbers of friends and admirers who came to mourn at his funeral. The appointment and, later, the election of David A. Reed to fill the vacancy not only greatly strengthened Pennsylvania in the Senate but gave me a colleague whose energy, ability, courage and acumen won both my friendship and admiration.

Another question pending before the Senate when I first entered arose from the effort to deprive Senator Truman H. Newberry, of Michigan, of his seat because of alleged excessive expenditures made by friends in his successful preprimary campaign. I found myself under heavy pressure, both through correspondence and personal interviews, from those who saw in the pending question a welcome opportunity to protest against heavy political expenditures. As I analyzed the situation for myself, I could not escape the conclusion that since the voters of Michigan had, at the general election, elected Senator Newberry after the preprimary expenditures had been made a campaign issue, it was not for the Senate to revise the judgment of his constituents. I cast my vote in accordance with this conclusion and with the painful realization that this was probably only the first of many cases in which votes cast in accordance with convictions

would arouse not merely criticism but virulent attack, and might even result in the breach of life-long friendships. What I could not have been expected to foresee was that a question ultimately involving the same constitutional considerations would arise in connection with the seating of my own successor. The facts of the two cases were different, but had I been called upon to vote on a case similar on its constitutional side to that of Mr. Vare's, I should have adhered to the theory which led me to vote as I did in the Newberry case.

# IV

## HOLDING THE JOB

THERE are many ways of classifying senators. There are those who talk little and say much, and those who talk much and say little. They may be graded with reference to the actual contributions they make to constructive legislation or according to the effectiveness of their opposition to what others propose. But from whatever angle senators are viewed, one conclusion always holds good. It is that there remains a sound threefold classification: First, those who understand how to get the office and keep it; second, those who can discharge the duties of the office when they have it, and, third, the rare men who can do both these widely different things.

It did not take me long to discover how difficult it is to learn the technique of keeping an office, once attained. Under a governor's appointment, I took my seat in mid-January. Almost before my ears had ceased to ring with the predictions of optimistic friends that a senator from Pennsylvania could, if he wished, remain in the Senate all his life, I detected the sound of a coming storm. I was not to be permitted, I heard, to receive, at the May primary, the Republican nomination for the unexpired term of Senator Penrose. I was to be pictured to the electorate as a man of privilege, knowing little of the life of Pennsylvania and nothing of the problems of the toiler. I was to be announced as the representative of special interests

and the enemy of the workingman. I might be smart as a Philadelphia lawyer, but I was, the story ran, not wise enough to be a senator from Pennsylvania.

The advice of warm friends with political experience impressed upon me the necessity of taking immediate steps to give the county leaders and the voters a chance to meet me and draw their own conclusions. Overnight the map of Pennsylvania took on, for me, an entirely new significance. I had been accustomed to think of the state in terms of judicial districts and courthouses in which cases were to be argued. In wartime the sixty-seven counties assumed an individuality which they had never had before, but this was for purposes of national defense, the sale of Liberty Bonds, and the dissemination of the teachings of the Food Administration. Now I was to learn, as must every new-comer in politics, how little I really knew about the people who controlled the vote in these counties; to discover that I was unknown, even by name, to many of those who were effectively engaged in plying locally the trade of king maker.

With a dying colleague, with a tariff bill in the making and with Senate technique to learn, it was out of the question that I should take the time to visit every county of the state. Wise advisers indicated the strategic centers and put me in touch with upstate leaders, of whom I knew as little as they knew about me. Then began a series of night journeys from Washington to distant points in Pennsylvania, meetings, on arrival, with local committees hastily organized to greet me, solemn conferences in the offices of men higher up, maiden political speeches to groups gathered in courthouse squares or in available halls, and endless handshaking in the lobbies of local hotels as the faithful were marshaled in impressive

array by those squad leaders upon whose activity the local effectiveness of the state Republican organization depended.

Meanwhile an impromptu campaign committee was being formed to support my candidacy. A valued friend and colleague at the Philadelphia bar, with political contacts far more numerous than mine, consented to act as chairman. My lawyer friends and those with whom I had come in contact in wartime became important assets in effecting emergency organizations throughout the state. Meetings were scheduled, itineraries arranged, and I was notified of the engagements that I must meet.

Since this was a primary campaign, I could not call on the Republican State Committee or its recognized branches throughout the counties for assistance. Later, in the general campaign, after a candidate had been selected, this committee, with the weight of the state organization behind it, would function. Yet an organization of some sort was necessary, for political ideas, like social and economic truths, require elaborate organizations to propagate them, and candidates need similar support. There is a great difference between the average citizen's impression of a political election and the things that really occur on and immediately before election day. Arousing interest among voters and influencing their votes require the expenditure of both time and money. Someone must ring doorbells in every precinct or division. In a city-wide campaign this requires intensive effort. In a state-wide campaign the effort must be extensive as well. In almost solidly Republican or Democratic states as, for example, Pennsylvania or Alabama, the great effort is concentrated, of course, on the fight for nomination in the primary election. This fact contributes

tremendously to the strain and expense of running for office under modern political conditions.

I was at the time a member of the Banking and Currency, Military Affairs and the Library of Congress committees in the Senate. These assignments required frequent attendance at meetings, and long hours of study over bills demanding favorable or unfavorable reports. I was trying to guard the interests of Pennsylvania in the complex tariff-making situation. I was profoundly concerned with the problem presented by the limitation-of-armaments treaties, which, when I went to the Senate, were under consideration by the international conference called by President Harding; and was deeply involved in discussions of the proposed bonus for veterans of the World War, the Dyer anti-lynching bill and a host of both public and private measures which demanded of a new senator not only careful consideration but long hours of intensive study.

In the midst of the work I was called away frequently to help my own campaign. I spent twenty-five days in twenty-five of the sixty-seven counties in Pennsylvania, making an average of five speeches a day. I had to do this while discharging as well as I could my senatorial duties at Washington. Of course I should have gone into every county. While this effort undoubtedly detracted from my ability to serve the state with undivided energy, I believe that it had its advantages in bringing me into closer contact with constituents and in increasing my capacity to understand and properly represent my commonwealth.

Despite the great strain it puts on the candidate, the primary system has the one great advantage of giving to all the people a sense of direct contact with their Govern-

ment and their public men. It may produce, as many critics have suggested, representatives in Congress of a poorer quality than those who emerged from the convention. Under the social and economic conditions that exist in America today, however, it seems quite possible that only the men who rise from obscurity by a process of direct selection are capable of influencing the masses which give them prominence and power.

My chief opponent in the 1922 primary was an experienced officeholder who had served acceptably as congressman-at-large and who therefore had been before the electorate and had had the experience of actually polling a heavy state-wide vote. Carrying a union card and proclaiming himself as a fellow toiler with the workingman, he was able to appeal to a wide audience. With a sagacity born of experience, he made the most of his opportunity to list various public questions on which I had declared myself and, by taking the opposite side on each, to find a ready-made constituency whose friendliness to him was, in fact, less dynamic than its opposition to me. This, of course, is a not unusual situation in American politics.

I had announced that I would not advocate a bonus measure granting an outright sum of money to all veterans of the World War. This attitude aroused much resentment among those who favored a bonus, and advocacy of the grant became one of the strongest planks in my opponent's platform. Another interesting factor operated to some degree in his favor. As legislation had then recently abolished the office of congressman-at-large, he was in the position of an officer whose horse had been shot under him and was able to make to the regulars a moving appeal for another mount.

There is always a great deal of vote-making sympathy for the man whose office has been taken away from him, which is in marked contrast to the way in which, in America, the public always loses interest in the man who has met with defeat. Failure to get elected seems, at times, to be an almost unforgivable sin in American politics. Almost always it precludes a man from ever running again for office. In a dynamic nation interested, as ours is, in results rather than in processes, success is emphasized to an extraordinary degree. In politics, as in athletics, there are few instances in which the man is remembered for the plucky fight he made. In the great majority of cases the defeated officeholder becomes at once unavailable politically and the dethroned champion is amazed by the quickness with which he lapses into obscurity.

As I gained experience in the course of my campaign, I became aware that the senatorial contest was being deprived of much of its usual significance by the circumstance that a great political drama was being staged in connection with the struggle for the governorship. The able administration of Governor Sproul was drawing to an end. A caucus of state Republican leaders had proposed as a candidate for governor in the primary a man whose eminent qualification for the office was equaled only by his reluctance to run. The disappointment of other leaders who, with candidates of their own, had been unable to make their choice effective, naturally detracted from the support given to the candidate so selected and offered an opportunity to any aspirant who should enter the lists as the people's champion and profit by the lukewarmness of many of the organization stalwarts. Gifford Pinchot, who had himself been a member

of the governor's cabinet, saw his opportunity and was quick to take it. He conducted a campaign of his own, relying chiefly on the unlovely, but nevertheless suggestive, slogan, Clean Up the Mess. He was nominated by a slender margin. In the resulting astonishment at what had happened, the fact that my own campaign for nomination was won by a majority of 241,159 votes was a political circumstance that passed almost unnoticed.

Although, as I have said, I recognize the value of the open primary in establishing a wholesome relationship between the candidate and his prospective constituents, and although our experience is not yet sufficient to make a wise change in the laws under which it operates, my own experiences in 1922 and again in 1926, have given me a sympathetic understanding of the attitude of many public men who have expressed skepticism respecting the system's ultimate success. I believe that any system of making nominations is good if it results in the choice of a responsible candidate and unifies the party for his election. An unfit candidate supported by a unified party means trouble ahead for the party. A well-qualified candidate who cannot command unified party support is badly handicapped from the start.

The party convention—in which the candidate is selected by delegates chosen by the people—was discarded because it was thought to produce machine candidates. Moreover, there is in this country a decline of authority which manifests itself, among other ways, in impatience with party control. To take nominations out of the hands of conventions suggested itself as a wise reform. The open primary—in which the people vote directly for the nomination of their favorite candidate—is, however, proving far from perfect as a candidate picker, and it

has developed some features which menace party existence. Some of the debit items in the account of a state-wide open primary which my own experiences have demonstrated are these: Intensified factionalism, confusion of issues, unwholesome expense and undue strain upon the candidates. Let me illustrate.

If there is a long and bitter preprimary fight between two qualified candidates, the danger is that the friends of the loser will either not work for the winner when the general election comes on, or will even bolt and vote for the candidate of the other party. This difficulty is not absent from the convention system, but it is much more acute in the open primary. A candidate defeated in a state-wide primary is popularly regarded as having been as effectively thrown into the political discard as if he had been beaten in a general election. This often results in losing to a party the continued activity and service of a man the party cannot afford to lose. Such a result embitters his friends. Any system which brings this about involves a waste of party man-power.

A convention chooses not only a candidate but a platform. The party nominee runs upon the party platform thus chosen. The platform is usually drafted to harmonize with the national platform of the party. In an open primary, however, each aspirant for a nomination may set forth his own platform. He may think it popular to announce himself as a wet or a dry, or as an opponent of evolution, or as a free trader, or as committed to a particular brand of farm relief, or as favoring a certain foreign policy. If, for example, he wins the Republican nomination and election to the Senate by some such slogan, and if the Republican Party in National Convention adopts an opposite policy, he is still considered a Repub-

lican, but he must either vote against his party on the issue or repudiate his own slogan. Enough senators elected under such conditions could destroy all party harmony and efficiency. The number of men thus chosen appears to be increasing at a rapid rate.

It is not unnatural that some candidates with statewide campaigns to carry through successfully should make great expenditures of money, not necessarily for purposes of corruption, but to meet the demands of sordid political practice. Probably to a greater degree today than ever before do the men and women interested and participating in political activities expect to be paid for their work. In the majority of cases a candidate with many admirers interested in his election will receive enough contributions to his fund to finance the campaign. But to the candidate with a big bank account of his own, this type of support is unnecessary. He personally can supply all the sinews of war. Though it is a serious matter to have a candidate's admirers waste money in his behalf, it seems far more serious for a man without responsible backers to secure the party nomination by means of the lavish use of his own money.

The difficulties which have arisen in attempts to regulate primary expenses by law are born of the fact that the primary system is by its nature an expensive one. The process of disseminating political information is costly and varies in different states. In Pennsylvania a single well-written form letter, addressed and mailed to each Republican voter, could cost $150,000 or more. But although much of the criticism of primary expenditures in large states is uninformed and, at times, malicious, it serves a good purpose, because it is a deterrent to waste and tends to make campaign managers careful instead of

prodigal. At best, however, the primary system is an expensive luxury and in the long run it may prove dear at any price.

This explains why many prospective public servants whose enlistment would be invaluable to state or nation are reluctant to seek any office involving a state-wide campaign. The prospective candidate, if he already holds office, recognizes that he is confronted by a task which involves three distinct and harassing duties: First, the actual day-by-day work of his office; second, the bitter internecine fight of a primary campaign; and third, the renewed fight involved in the general election. Of these, the primary imposes usually the greatest strain. Responsible party organizations compete in the general election and usually observe decently the rules of the game. But into the primary any irresponsible candidate may enter and, by a campaign of abusive charges boldly made and plausibly maintained, damage irremediably his opponent's chances and character. The difference between the general campaign and the primary may thus, in many instances, be compared to that between lawful and guerrilla warfare. Principally because the primary can become so unlawful does it stand as a barrier between many worthy citizens and public office.

The period between the primary and the general election of 1922 gave me the opportunity for some of the most interesting work of my Senate career. Apart from the routine duties mentioned above, a second campaign had to be waged. Gifford Pinchot, David A. Reed and I headed the ticket supported by the Republican State Committee. Largely under the expert direction of the late W. Harry Baker, first as secretary, then as chairman of the committee, a man whose political knowledge and

ability were surpassed only by his likable personal qualities, an active fight was conducted, with the outcome never in doubt. All three were elected with substantial majorities, together with almost the entire state ticket. This campaign demanded, of course, a repetition of meetings and speeches throughout the state—speeches for which I was again drafted from my Senate duties. I also responded to calls for a number of addresses in other states in support of candidacies of Republican senators whose prospects seemed doubtful.

If I had hoped that attained success in the primary and prospective success in the general election would set me free to concentrate on senatorial duties, I was sadly mistaken. The illness of Senator Crow, who was chairman of the Republican State Committee of Pennsylvania, made necessary the choice of a successor. Senator Penrose had been Republican National Committeeman from Pennsylvania and his place had to be filled. Over the state chairmanship there was an acute conflict within the party. Joseph R. Grundy, influential because of his faithful service to the manufacturing interests of Pennsylvania and his consequent ability to raise campaign funds, had been dissatisfied with the choice—made against his protest—of a gubernatorial candidate to oppose Pinchot in the primary. Determined, it was generally believed, to rebuke those who had differed from him, he sought to effect the election as state chairman of a man of his own choice. He called on me to support his candidate. I, however, concluded that the preservation of the State Republican organization required the election of Baker, who had been the able and experienced lieutenant of Senator Penrose. My refusal to support Grundy's candidate caused a breach between us never afterward healed.

Baker's election by an overwhelming majority followed. At the same time I was elected to succeed Penrose on the Republican National Committee, not because I had the political sagacity required for the position, but because, having no political background, I had few enemies; whereas the nomination of any one of the so-called leaders could have reopened the factional fight which alone had made Pinchot's nomination possible.

In the midst of all these preëlection activities, it devolved upon Senator Reed and me to take an active part in the negotiations which led to the settlement of the serious anthracite coal strike which, for workers, operators, and consumers alike, had darkened the spring and summer of 1922. At that period of the strike, mine workers and operators had reached what appeared to be a hopeless deadlock. The then Secretary of Commerce, Mr. Hoover, told me that I, as senator from the anthracite state, should try to act as mediator. As a new senator, I felt that I had no standing to volunteer, but said that I would make the effort if thereto requested by the President. In due course I received a letter of request from President Harding, which was delivered to me personally by Secretary Hoover.* I at once established contact with Governor Sproul, and with him I called upon the late William A. Glasgow, Jr., an able and high-minded lawyer and a friend of many years. He was at the time counsel for the United Mine Workers, and had the confidence of their president, John L. Lewis. Lewis was at the moment in Indianapolis, where Mr. Glasgow called him on the long-distance telephone, told him of my mission, advised him to consider my proposal sympatheti-

* President Harding's attitude toward this strike as expressed in his letter is described in greater detail in Chapter V.

cally, and ended by putting me on the telephone in his place. As a result, Lewis came to Philadelphia, where we conferred. With his approval, the governor and I established contact with a committee representing the operators. There ensued a long series of nerve-racking conferences in my rooms in the Senate Office Building, in which Lewis and his lieutenants and the committee of the operators argued backward and forward for hours at a time, and often far into the night. I acted as moderator, and, with the indispensable assistance of my new colleague, Senator Reed, gradually brought the minds of the disputants together. The details of the transaction, interesting as they are, cannot be told here because of space limitation. It is enough to say that no political capital was sought to be made out of the settlement and that publicity was avoided rather than courted. Terms were reached satisfactory to both sides, a basis was laid for the appointment of the United States Coal Commission, a year's agreement was signed, the men resumed work and the public got its coal.

It was during this period also that I enjoyed some of my most interesting associations with President and Mrs. Harding. During the long summer session of 1922, when the day's senatorial work began at nine in the morning and lasted until midnight, it was a life-saver to be invited by the President to use the White House tennis court. At seven o'clock on three mornings each week, spirited contests took place there in which Senator Hale, of Maine, Theodore Roosevelt, Jr., and I were regular participants, while either Senator Wadsworth, of New York, or my colleague, Senator Reed, made a fourth. While we were playing tennis the President was often practising

golf strokes on the lawn, and the relative merits of the two sports became the subject of good-natured controversy. A shower and some breakfast made everybody fit for the day's work.

Mrs. Harding, though always hospitable and kind, was seldom carefree. She not only took seriously the responsibilities of her position but was as much concerned with the details of her husband's work as she had been with the events leading up to his nomination. She was a shrewd politician and, except where her personal likes and dislikes were involved, a keen judge of men. On one occasion she told me that she had kept for years a little book in which she entered the names of people whom her husband ought not to trust and the names of those in whom he might safely confide. I have often wondered what the book would disclose in regard to some of those who later shamefully abused Mr. Harding's confidence.

Her highly nervous organization gave Mrs. Harding a liking for fast driving which sometimes made an automobile ride with her a thrilling experience. Once when Mrs. Pepper and I were motoring from Baltimore to Washington in the White House car with the President and Mrs. Harding, we had as narrow an escape from a serious collision as I hope ever to experience. We were making not less than fifty miles an hour on a highway intersected by crossroads. A driver approaching at right angles paused to allow the motorcycle outriders to pass and then, not realizing that they were the advance guards of the approaching car, started to cross the road, only to find us bearing down upon him at lightning speed. He stopped his car at right angles to our approach. There

was no room behind him and only the narrowest possible channel between his headlights and a telegraph pole. Through the passage the presidential chauffeur piloted his car, just escaping the pole and the other automobile.

"Close call," said Mrs. Harding in a matter-of-fact tone.

On another occasion when a caravan of cars was following the President and Mrs. Harding from Washington to Gettysburg, such a pace was maintained by the presidential car that all who tried to keep up were in peril. Just ahead of me was General Pershing's car and just ahead of his was that of General Dawes. When the procession halted for a few minutes in front of the house that had been Admiral Schley's, the occupants of most of the cars dismounted, happy to be again on terra firma. I can still see General Dawes, his eyes flaming, walking up to the President's car and shaking his finger at Mrs. Harding while he took her seriously to task for permitting her own and other precious lives to be jeopardized.

While Mr. Coolidge was Vice-President, opportunities for contact with him and with Mrs. Coolidge were many. The men on my farm are still talking of the interest he showed in them when he and Mrs. Coolidge spent a week-end with us. Two years later, when Mr. Coolidge was President, Mrs. Pepper was giving to our farm manager his first glimpse of Washington. In the line of visitors in the Executive Office, before Mrs. Pepper could do more than say a word of reminder, Mr. Coolidge delighted our friend by offering him his hand and asking, "How is everything back on the farm?"

Memories of time spent in the society of Mrs. Coolidge are also happy ones. Mrs. Pepper and I fell willing

victims of that charm which endeared her to all who came near her. Looking backward, it seems to me that contacts with colleagues and friends were at least as stimulating and agreeable as the work of the Senate itself.

# V

## THE WHITE HOUSE FROM CAPITOL HILL

IT HAS been my good fortune to come into personal contact with nine Presidents of the United States. Colonel Roosevelt was the first of these with whom the contact was more than occasional and formal. In the case of Mr. Taft, as the result of many associations both before, during and after his presidential term, the relation rose to the dignity of a friendship. Mr. Harding was the first with whom I had an official relation. He and Mr. Coolidge were the Presidents during whose administrations I served in the Senate. Naturally my opportunity to judge these men and to estimate their worth was greater than in the case of any of the others.

I first met Mr. Harding in Chicago immediately after the adjournment of the Republican National Convention in 1920 which nominated him for the Presidency. Senator Watson of Indiana introduced me to him when I called to pay my respects. Harding had a certain charm of manner which was not assumed but was the manifestation of a genuine interest in his fellow men. He held out his hand to me and said with a certain quiet earnestness, "I hope to see you often and I want you to think of yourself as one of us." I had been a supporter of General Leonard Wood for the nomination and I had been prejudiced against Harding. His bearing, his greeting and the short talk that followed did much to remove the preju-

dice. From that moment until the day of his death I counted him as a friend. The thought, of course, never crossed my mind that within eighteen months I should be sitting in the Senate and seeing him frequently in connection with public business.

Since his death, stories have been circulated, orally and in print, which reflect seriously upon his integrity. I have avoided the books in which these stories appear, because I think time can be better employed than in reading attacks upon the dead. Therefore I am not in a position to engage in controversy about him even if I were disposed to do so. What I have here set down is mere matter of fact recorded in the form of personal recollections. Possibly there may be some readers whose interest in public men is not stimulated exclusively by defamation.

Mr. Harding's friendliness manifested itself even in unimportant correspondence. Within a month after his inauguration he wrote to me as follows:—

> The first day you find yourself travelling toward Washington I wish you would run in and give me the satisfaction of a brief interview. The matter is not urgent, but I would like to see you sometime within the next couple of weeks. The appointment can be arranged any day most convenient to you.

I had not the least idea what was in his mind. When, however, I sought the interview which he had suggested I found that something had intervened which made it unnecessary. I learned afterward that the President, of his own motion, had intended to tender me the office of Solicitor General but that Senator Penrose had objected. This was not surprising, as I had never enjoyed Penrose's confidence. I have been told that he had interposed a similar objection when President Taft proposed to offer me an important judicial position. Penrose, I

suspect, had never forgiven me for appearing with Senator Edmunds before the Senate Committee on Privileges and Elections in opposition to Quay's claim to a seat. The incident occurred before the constitutional amendment providing for the direct election of senators and at a time when senators were elected by the legislatures of the several states. The legislature of Pennsylvania had failed to elect Quay to succeed himself, but after the legislature had adjourned Governor Stone had appointed him. The contestants urged that the vacancy thus sought to be filled had not "occurred" during a recess of the legislature and that the Governor was therefore without power to appoint. This undoubtedly sound view was adopted by the committee, notwithstanding an able argument in Quay's behalf by John P. Elkin, then Attorney General of Pennsylvania and afterward a justice of the Supreme Court of that state. Senator Hoar of Massachusetts voted with the minority. As we left the committee room the old gentleman, mistaking me for Elkin, congratulated me on presenting an argument which exactly coincided with his views. He was not a little embarrassed when he found that he had congratulated the wrong man. The Senate sustained the committee and Quay was denied the seat. It would have been impossible for Penrose really to approve a man who had had the temerity to array himself against Quay.

Following my appointment to the Senate I at once called on the President and was received by him with his usual cordiality. Among other things he told me that some of my colleagues in the Senate were accustomed to gather at the White House on occasional evenings for a game of cards. He asked me to become one of the group. In somewhat apologetic fashion I had to explain

that I had no card sense and had never learned to play. He laughingly put the matter by and offered me for my pipe some of his favorite tobacco. We sat and smoked for some time while he talked in a most interesting way about some of the measures then pending in the Congress in which he took a special interest. I was beginning to appreciate better than ever before the immensity of the post-war problems of government. These looked formidable enough when seen at a distance but they loomed larger as one approached the seat of government. I also realized, for the first time adequately, the network of political obligations spread in the way of a President nominated under the conditions which existed in the Republican National Convention of 1920. I doubt whether any man ever entered the White House confronted by a more stupendous task or with greater need of trustworthy lieutenants to advise him wisely and to act with loyalty in the execution of his plans. The vast majority of those whom he selected responded in fine spirit and with admirable efficiency. In a few instances it later turned out that his confidence had been misplaced. Naturally enough, this fact cast a shadow of eclipse over much of his administration. Such occurrences are the tragedies of political life. At the time of which I am writing, however, the President was attacking his problems with wisdom and vigor and he seemed fired by no other ambition than abundantly to justify the popular verdict which gave him his title to office.

I doubt if it is generally realized how important was the legislation enacted by the Congress in the years between 1920 and 1928. A student of legislation in whose judgment I confide puts it this way: "At no time in the history of the American Congress has there been such a

quantity and variety of fundamental, constructive and forward-looking legislation as was enacted by the Congress under Presidents Harding and Coolidge. I very much question whether any quarter century of our national history can equal the record made in these eight years. It is of special significance that none of this legislation was sectional. None of it promoted the interest of any one class of citizens at the expense of any other class."

I have reviewed the legislative history of this period and I do not think that the comment thus quoted is an over-statement. In the field of agricultural relief there were over a score of acts of major importance. Some of these were in the form of amendments and amplifications of existing laws. Many inaugurated new policies and were steps in advance of anything previously undertaken. The financial legislation was even more significant. To reduce the interest-bearing public debt by nearly seven billions of dollars and to refund, at a reduced interest rate, over four billions of the remainder was in itself a stupendous achievement. Nor must it be forgotten that four federal tax reduction laws were enacted, aggregating an annual saving of one billion eight hundred million dollars to taxpayers; that annual interest charges were reduced by three hundred and twenty-six million; that the tariff legislation of 1922 produced an annual revenue in excess of half a billion of dollars and that the refunding of more than eleven billions of foreign loans yielded an annual payment to us of interest and principal of more than ninety millions.

President Harding signed and put into operation the national budget law, and the system of accounting and administration inaugurated by this legislation has be-

come an accepted and necessary part of our governmental structure. The enactment of legislation in behalf of the ex-service men and their dependents was begun at a special session of the Sixty-seventh Congress summoned by President Harding. The original act and its amendments have created a system of hospitalization and insurance unrivalled, as far as I know, in any other country. Welfare legislation and miscellaneous acts too numerous to mention all stand to the credit of this remarkable era. The act of Congress that embodied the budget system gave to the Director of the Budget and to the Comptroller General a status and authority which came as something of a shock to the officials in executive departments who had been accustomed to have a free hand in seeking appropriations and in expending them. The budget system is now so much a matter of course that we forget the immense amount of executive self-control required to accept and enforce legislation which in so many respects subordinated the President to the Congress. President Wilson had vetoed a similar act because he wanted the executive department to maintain its supremacy. President Harding not only signed the bill but overcame seemingly insurmountable obstacles and made the system work. When he persuaded General Dawes to become the first Director of the Budget he did a splendid thing, but even the General could not have made the machine work without steady executive support. One day the new Director called on the President and said: "I am not getting far with your heads of departments."

"Why not?" asked the President.

"Because I can't afford to cool my heels in their

waiting-rooms and they won't come to see me," the Director answered.

Having learned which Cabinet officer was the latest recalcitrant, the President at once called him by telephone and requested him to come to the Executive Office. On his arrival Mr. Harding said, "The General and I are talking over some items in the appropriation to your department and we want you to advise with us." The Cabinet Officer sat down and the discussion began. Presently the President said, "I have no more time now to give you fellows. Just step into the other room and talk this out." They did so. The contact was established and the difficulty did not recur. This is typical of the method employed by Harding in bringing together minds which seemed far apart. There is something in such a method that leads one to recall the wisdom and tact of President McKinley.

Post-war industrial unrest was prevalent in 1922 and 1923. The strike of the railroad shopmen created a serious situation in the transportation field while in the anthracite coal region the situation was even more acute. The contrast between Mr. Harding's attitude toward these problems and the method of dealing with them subsequently adopted by Mr. Coolidge was as striking as were the other differences between these two men. Harding's approach was that of a warm-hearted, impulsive man who was ready to throw himself into the breach and to use the power of his personality to bring the warring elements together. Coolidge kept whatever feelings he had under stern control and played the part of an impersonal executive. In the case of the shopmen's strike, I foresaw trouble for the President if he became involved in an acute controversy of which the Railroad

Labor Board had already taken jurisdiction. I wrote him a personal letter intended to suggest, tactfully, that sound administrative policy required him merely to enforce the decisions of the Board and not himself to perform its functions. I received in reply the following letter, which shows clearly that his aim was true and that he was not to be diverted from his purpose:—

I had your autographed note of July 27th. Frankly, I do not agree with the proposition that the President, in a great emergency, cannot act as mediator in the settlement of any difficult problem. The difficulty with the railroad executives' position is that they expect me, as the responsible head of the government, to enforce to the letter the decisions of the Railroad Labor Board as such decisions relate to the employees, while the railroads have again and again ignored the decisions of the Board where the fulfillment was encumbent on railway managers. This is the very thing which necessitates mediation in order to bring about a settlement of the pending strike. I have already declared my support of the Labor Board. Any settlement which is negotiated through mediation will be based upon both managers and working men agreeing to accept the decisions of the Labor Board and complying therewith as contemplated by the law.

I am always grateful for your interest, and am very glad to have your suggestions.

As time went on, however, it became increasingly clear to him that he had undertaken an impossible task. He therefore asked me to attempt, through mediation, to allay some of the bitterness of feeling that had been engendered during the strike. I established friendly relations with the striking shopmen and held many conferences with the representatives of the carriers. It may be that these efforts did good. At all events they relieved the President of a burden which had weighed heavily upon him. He wrote me on March 5, 1923, an appreciative letter which in his own hand he marked "personal and

confidential." After this lapse of time there can be no objection to publishing it. It read as follows:—

From various parts of the country, especially from Pennsylvania, come reports of the continuing seriousness of conditions growing out of the Shop Crafts strike, which remains unsettled on a considerable minority of the country's railroads. Feeling strongly that this condition demands that every facility be afforded for promoting adjustment as soon as possible, I am asking you if you will continue, in such manner as your own good judgment may dictate, your most tactful and helpful efforts in behalf of such adjustments. Appeals have constantly come to me, for some employment of the government's influence to this end, but as you know the full measure of the government's authority, as now fixed, has been futile thus far, I shall feel grateful if I may be assured of your readiness to continue the efforts you have been putting forth heretofore, and you will be confident of my support in every possible way.

Most sincerely yours,
Warren G. Harding.

Of course he received the assurance for which he asked, for I was anxious at all times to do what little I could to effectuate his policies and to support his administration.

Elsewhere in this volume* I have referred to the great anthracite coal strike of 1922. It was in August of that year that Mr. Hoover, then Secretary of Commerce, suggested that I might be of use as a mediator between miners and operators. A letter which he brought me from the President bore date August 12th and was as follows:

I am told that Mr. Lewis has indicated willingness to confer at once with the anthracite operators in case they invite him to do so. I suggest to you as the Senator from the state most directly concerned that the operators will be acting in the public interest if they promptly send him a cordial invitation to attend a conference to be called by them at such time and place as they may choose.

* See Chapter IV.

with a view to the immediate resumption of production in the anthracite field. I feel justified in making this suggestion, because these operators have manifested throughout a spirit of cooperation with the Administration in seeking a fair basis upon which to adjust the anthracite strike.

I understand that as a basis of conference Mr. Lewis stipulates for a return of the men at the old wage scale and the acceptance by the operators of the so-called Shamokin proposals. In extending their invitation I hope the operators will indicate a willingness to take the men back at the old scale till a commission or other agency has had an opportunity to examine into the whole situation. As to the Shamokin proposals, I am hopeful that Mr. Lewis will regard them as proper for consideration at the conference rather than as subjects of commitment in advance. I am hopeful of this because I credit both operators and miners with a sincere desire to resume anthracite production and I am sure that neither will place any unnecessary obstacle in the way of fair adjustment.

As to the time, I hope that the conference will take place in the immediate future.

No time is to be lost. Even if production is resumed at once, the future consequences of past delays must necessarily be serious, but, if there is any further delay, we shall be in danger of nothing short of nation-wide disaster.

As to place, I suppose that there may be advantages in meeting somewhere in the anthracite region rather than in Washington. The Mayors of several of the important cities in that region have assured me of an intense public sentiment among their people in favor of prompt settlement. It may be that in such an atmosphere the prospect of quickly reaching a fair adjustment would be bright. This, of course, is a point to be determined by those who issue the invitation.

With such credentials to back me and with the indispensable support of my new colleague, Senator Reed, I was able to settle the strike upon a basis fair to the public, to the miners and to the operators. The settlement was followed by the creation of the United States Coal Commission of which John Hays Hammond was the efficient chairman. When the agreement thus negotiated expired and another strike occurred, the then Governor of Penn-

sylvania, Gifford Pinchot, was quick to perceive an opportunity to gain the powerful political support of the mine-workers. By championing the cause of the miners and by the adroit use of effective publicity he secured from the operators a 10% increase in the wage scale which the operators, of course, promptly passed on to the public in the form of an increased price for coal. By avoiding publicity and by striving to see both sides of the issue we had effected in 1922 a settlement which was of no political advantage to me whatever. Pinchot, on the other hand, at the cost of some millions to the public, bound the mine-workers to him with hoops of steel. In the pre-primary campaign of 1926 the support thus purchased was a powerful factor in diverting to Pinchot votes by which I would otherwise have profited as against Vare.

All these well-meant mediatorial efforts are in striking contrast to the canny aloofness of Mr. Coolidge. After his succession to the Presidency, he asked President Harding's secretary, George Christian, to carry on for a while until the new administration should have established itself. Nobody could be more impressed than Christian by the difference between his two chiefs. "If I stayed much longer with the new President I should come to love him for the way he handles problems," he said after a few weeks of contact. "One day," he added, "I responded to the President's bell and found Mr. Coolidge looking out of a window opening on the White House grounds while he smoked a big cigar. 'Mr. Christian,' said he, 'it is about time for many people to begin to come to the White House to discuss different phases of the coal strike. When anybody comes, if his special problem concerns the state, refer him to the Governor of Pennsylvania. If his problem has a national phase, refer

him to the United States Coal Commission. In no event bring him to me.'" Mr. Coolidge resumed his cigar. As far as he was concerned the strike was over.

In attempting to analyze Mr. Coolidge's character some critics profess to find him devoid of feeling while others declare him indifferent to public corruption. The first count in this indictment can be neither proved nor disproved. In the philosophy of men of the type to which Mr. Coolidge conforms feeling is a thing to be hidden. Manifested feeling is, in their estimation, a weakness. One Sunday Mrs. Pepper and I had been to church with the President and Mrs. Coolidge. Afterwards, at the lunch table, he asked what we thought of the sermon. Its theme was gratitude and the text was "Were there not ten cleansed? but where are the nine? There are not found that returned to give glory to God, save this stranger." I commended the sermon but the President said: "I'm not at all sure that the man who came back and prostrated himself was a bit more grateful than the nine who went about their business. When I appoint a man to office I don't want him to thank me. I want him to go and make good." There was much self-revelation in this remark; but no basis for inferring insensibility. If Mr. Coolidge never thanked those who had served him faithfully he was merely doing as he would that others should do to him.

The second count is altogether without foundation. It is impossible to contemplate Mr. Coolidge's rock-ribbed honesty without realizing that it is absolutely inconsistent with easy-going tolerance of dishonesty in others. In the presence of such dishonesty there is always open to the honest public man a choice between two courses—the utterance of fierce denunciation and the

exertion of wholesome influence by silently but obviously pursuing a course of simple rectitude. It is mere matter of opinion as to which of these courses has the greater public value. Roosevelt was a denouncer. Denunciation went well with his temperament and physique. If Coolidge had attempted to burst forth in denunciation it would have been an almost ludicrous performance. Such an explosion would have been out of keeping with a philosophy which substitutes performance for talk. A good way in which to test the two methods is with reference to the possibility of imitating them. Roosevelt has had many little imitators whose denunciation is unreal and ineffective. Nobody could even attempt to imitate Coolidge's method without being the real thing.

An excellent illustration of the futility of exaggerated denunciation is found in the following passage from the Democratic platform of 1928:—

> Never in the entire history of the country has there occurred in any given period of time, or indeed in all time put together, such a spectacle of sordid corruption and unabashed rascality as that which has characterized the administration of Federal affairs under eight blighting years of Republican rule. Not the revels of reconstruction nor all the compounded frauds succeeding that evil era have approached in sheer audacity the shocking thieveries and startling depravities of officials high and low in the public service at Washington. From cabinet ministers, with their treasonable crimes, to the cheap vendors of official patronage; from the purchasers of seats in the United States Senate to the vulgar grafters upon alien trust funds and upon the hospital resources of the disabled veterans of the World War; from the givers and receivers of stolen funds for Republican campaign purposes to the public men who sat by silently consenting and never revealing a fact or uttering a word in condemnation, the whole official organization under Republican rule has become saturated with dishonesty defiant of public opinion and actuated only by a partisan desire to perpetuate its control of the Government.
>
> As in the time of Samuel J. Tilden, from whom the Presi-

dency was stolen, the watchword of the day should be, "Turn the rascals out." This is the appeal of the Democratic Party to the people of the country. To this fixed purpose should be devoted every effort and applied every resource of the party; to this end every minor difference on non-essential issues should be put aside and a determined and a united fight be made to rescue the Government from those who have betrayed their trust by disgracing it.

When the Republican Party went before the country on eight years of performance versus the denunciation just quoted, the popular jury returned a verdict for the former without leaving the box. Some cynics profess to see in this result a low standard of popular morality. Such critics are like little lawyers who always account for an adverse verdict by assuming that the jury has been tampered with.

Looking from Capitol Hill toward the White House, one is tempted to appraise the contribution to national well-being made by Harding and Coolidge. It is, however, too soon to hazard more than a guess respecting the rank which history will accord to either of them. My own guess is that, as time passes, the attack on a single phase of Harding's private life and the default of those who betrayed his trust will cease to color estimates of his actual achievements. After his death and after certain betrayals of his trust had been revealed, I insisted, in a speech before the Republican Convention of the State of Maine, that the honest and therefore the best policy was to admit the defaults, place them in their proper relation to achievements and trust the country to see the picture in just perspective. This, obviously enough, was sound common sense. It was, however, regarded as political heresy by those versed in the mechanics of party politics. Such men, clever enough at

tactics, are stupid when it comes to strategy. I derived much amusement from the attacks made on this speech by those politicians of my own party whose only maxim is, "Claim everything and admit nothing." They managed to present the Democratic mechanicians with something like an issue, which the latter in their turn fumbled by indulging in the absurd exaggeration quoted above.

As to the Coolidge administration, I always found myself admiring the practical wisdom with which domestic policies were fashioned and carried out, while sometimes irritated by the lack of that scientific imagination which is indispensable in dealing with foreign affairs. My guess is that Mr. Coolidge will be denied by posterity the rank of Pitt, but that he will be recognized as the Palmerston of our political history.

# VI

## THE COMMITTEE SYSTEM

AFTER the general election of 1922, Senator David A. Reed and I, now sitting as elected rather than appointed members, found our days and nights distracted by the throng of duties which a seat in the United States Senate entails. Because of his experience in the World War, I relinquished to my colleague my membership on the Military Affairs Committee and accepted instead an assignment to the Committee on Naval Affairs. In time I became a member of the Foreign Relations Committee, the select Committee on Revision of the Laws and of the Committee on Printing, in addition to the other committees to which I had first been assigned—namely, Banking and Currency and the Library of Congress. As a member also of the Steering Committee, I shared the responsibility of recommending to the Republican majority the order of priority for the consideration of legislative measures, and because of membership on Naval Affairs became automatically a member ex-officio of the Appropriations Committee sitting to formulate the Navy appropriation bills.

Each of these committees has its separate and distinctive functions. The Committee on Foreign Relations considers all treaties and measures affecting our intercourse with other powers. The Committee on Naval Affairs is in charge of legislation relating to the first line of the national defense. The select Committee on Revision of

the Laws was charged, in coöperation with the House Committee, with the duty of collecting and codifying all the general and permanent legislation of Congress since 1789. The Banking and Currency Committee is concerned primarily with the welfare of the national banks and the coining and printing of our money. The Library Committee of the two houses, in addition to its supervision of the great Library of Congress, considers all measures for the erection of memorials and statues or any structures on public ground which will become part of the Capitol group. The Committee on Printing, among other functions, supervises contracts for the purchase of paper and supplies for the Government Printing Office—the largest establishment of its kind in the world, with a yearly output of money-order application blanks exceeding 200,000,000, and a capacity equal to printing 92,000,000 income blanks in thirty days, 32,000,000 books and pamphlets for the Department of Agriculture alone in one year, and a number of post cards annually which, as some of its statistically-minded officials boast, would attain a height of two hundred miles if stacked in a single pile. During my term in the Senate I was for a while chairman both of the Library of Congress Committee and of the Committee on Printing.

Probably the clearest explanation of the nature and effect of committee work can be made by recounting the history of certain significant measures to which attention was given during my term.

Among the most interesting of these was the Isle of Pines treaty, considered in the Foreign Relations Committee. As a result of such work as I was able to do toward securing the ratification of this treaty, the Cuban ambassador invited me to Havana, with the promise

that, if I accepted, a national holiday would be declared in my honor. I was never able to put to the test this hospitable offer.

The Isle of Pines treaty, when I became a member, had long been staring the Foreign Relations Committee in the face. After the Spanish War a considerable number of American citizens had settled in the Isle of Pines, south of Cuba, in the hope that under the terms of the treaty of peace with Spain this territory would be appropriated by the United States and that farm products could thus be imported into this country without duty. Cuba deeply resented this effort to deprive her of a valuable island which had been governed for years from Havana and was regarded as Cuban territory. Two treaties were negotiated between Cuba and the United States; one ceding to us a coaling station at Guantanamo, the other surrendering to Cuba our claim to the Isle of Pines. The former treaty was promptly ratified by the Senate. The latter, as a result of the urgency of the American settlers and largely because Senator Penrose had espoused their cause, had remained unratified for more than twenty years. This situation had caused deep resentment against the United States throughout all Latin America. I believed our conduct to be indefensible. We had fought the Spanish War to end Spanish oppression. To substitute American spoliation would have been a tragic outcome. I therefore urged that the treaty be brought out of committee and ratified. After it had been favorably reported, Senator Borah, chairman of the committee, with characteristic fairness, delegated to me the duty of handling the treaty on the floor, as he himself was opposed to ratification. A parliamentary struggle ensued. A filibuster organized by Senator Copeland, of

New York, was finally worn down, the treaty was ratified, and demonstrations of Cuban approval followed.

Another example of the complex problems attending consideration of international agreements in the Foreign Relations Committee was offered by the so-called Lausanne Treaty. In the old days, when Turkey's judicial system gave no guaranty of justice to litigants, the great powers stipulated that charges against their nationals in Turkey should be tried only in the consular court of the nation to which the accused belonged. Such a system, if imposed on a self-respecting nation, is apt to arouse bitter resentment. After the Great War, Turkey, at Lausanne, forced the European powers to surrender these so-called capitulatory rights. We were not a party to that treaty; but our State Department negotiated and the President signed a separate Lausanne Treaty with Turkey in which we made the same concessions as had been made by the Allied Powers. The Allies had, however, exacted from Turkey a promise of fair treatment for Armenia. Our treaty was silent on that point—wisely, in my opinion. If Armenia were ill treated it would be the business of the Allies to protect her, and we could coöperate with them or not, as we might decide. Had we, however, exacted a separate promise, and had that promise been broken, we should have had to acquiesce ingloriously or else resort to arms. The treaty left us free to help Armenia, but without commitment. It should have been ratified. Unfortunately, however, the Democratic Convention in 1924 had declared against ratification, thus making it a party issue. Still more unfortunately, a large body of Protestant clergymen fell an easy prey to propaganda hostile to the treaty and, as so often happens, succeeded in disguising a question of international

policy as a moral issue. The combined opposition of Democrats and clergy proved fatal, and we never were able to muster the two-thirds majority necessary for ratification. Since the old treaty of 1839 has been abrogated, we were thus left without normal diplomatic relationship with Turkey, to the great disadvantage of American business men and of our missionaries in the Near East. This disadvantage was mitigated only by Turkey's willingness to give us temporarily the rights of the most favored nation.

I recall one very interesting situation which developed in the Foreign Relations Committee out of the lengthy discussions over recognition of Russia. Senator Borah introduced and had referred to the committee a resolution advising the President to extend recognition to the Russian Soviet Republic. In committee he urged that public hearings be held on his resolution. I opposed such hearings on the ground that nothing was likely to be developed which would change the attitude of our Government and that only embarrassment to the Administration would result. Everybody else was favorable to the hearings and they were ordered held.

Doubtless as a mild measure of discipline for my opposition, Senator Lodge, then chairman of the committee, appointed me a member of the subcommittee to conduct the hearings. Several such hearings were held with Senator Borah presiding. Witnesses from the State Department presented an admirably prepared documentary case, establishing to my satisfaction that disturbing and dangerous propaganda is inseparable from the governmental activities of the Soviet. Then, while the hearings were still in progress, Lenin's death was announced in the papers. At the next hearing the chairman announced

that Lenin's death had introduced a factor of such uncertainty into the Soviet situation that it would be unnecessary, for the time being, to take any further testimony. Hearings were suspended and during my term in the Senate nothing more was heard of the matter. In point of fact the only organization that could by any possibility be recognized is the "Union of Socialist Soviet Republics." We must take all or none.

Probably the most important measures before the Foreign Relations Committee during my term were those dealing with the so-called World Court. Past and present developments concerning this interesting institution will be later discussed.* Consideration of treaties, which may have tremendous influence on our internal policies as well as our international affairs, occupied much of the committee's time. An impressive example of such influence is seen in the merchant-marine problem which confronted the Senate during the greater part of my term. Of the value of a merchant marine and its worth in the development of trade there can be no doubt. The problem we were facing was to make it function. At that time the merchant marine was bottled up and there were only four ways of escape. One was by cutting an opening through the restrictive barriers built by the so-called La Follette Act. Despite the assertions of shipowners and operating companies that the La Follette Act makes it impossible to compete with the cheaper and less restricted foreign cargo carriers, and despite the pleas that American shipowners are hampered by a high wage scale and by onerous restrictions, it is perfectly clear that there can be no repeal of the La Follette Act. That way out was closed. A subsidy would have helped the merchant

* See Chapter VIII.

marine, but the farmers in the West and Middle West would not consent to it, and their senators held the balance of power. The second channel was thus blocked. A possible third way out was so to regulate rail rates to the seaboard that a differential should be given to goods intended for export in American ships. The opposition of the carriers obstructed this channel. There seemed to me to be only one other way to enable the merchant marine to put to sea—and that was a preferential tariff in favor of goods brought into this country in American bottoms. My study of the history of American shipping convinced me that it was this very system which, within a short space of years following the winning of our independence, had built up our shipping industry and later made possible our naval successes in the War of 1812.

It is at this point that one may perceive the complexity of treaty problems. In our consideration of the merchant marine we discovered that the State Department, intent upon establishing cordial relations with other countries, had approved for general use a form of treaty that would bar the United States from laying a preferential tariff and had, in fact, negotiated with Germany a treaty in this form. In committee this problem was carefully considered. I was one of those who strongly maintained the position that the point should be safeguarded before the treaty became operative. After the difficulty was made clear, we did succeed in having Germany accept the principle of a preferential tariff to the extent of an agreement not to protest should the United States at any future time discriminate in favor of goods brought in on American ships. Thus a way was kept open to avail our-

selves of the fourth outlet, and so to make it possible for boats flying the American flag to sail the high seas.

Legislation dealing with naval affairs is both interesting and important. The work of the Committee on Naval Affairs puts its members in close contact with international complications resulting from attempts to reduce the number of fighting ships and to regulate armaments, as well as with domestic controversies concerning the relative values of cruisers and battleships, and of surface craft and aircraft. To increase my own knowledge of our naval establishment, and thus give a greater measure of service to the committee, I made inspections of vessels, navy yards and submarines and flew as a passenger in Navy combat planes.

One of the widely discussed bills before the committee during my membership was the measure providing for promotions in the Navy. For years there has been friction over the limit and rate of promotion of naval officers of the line and of naval officers of the staff. At bottom the difficulty is that those who like to associate the rank of admiral with the sea dogs of history look askance at the promotion to this rank of officers in the engineering, medical and other branches of the service. I was charged with the handling on the floor of a bill prepared in consultation with the Navy Department to establish a formula for concurrent promotions between line and staff, and to place the rank of admiral within reach of officers of the line and of officers of some of the staff departments only. Measures such as this are illustrations of bills upon which the Senate does not divide on party lines. The Navy and the Army have their supporters and their detractors on both sides of the aisle. One of those to whom

the Navy owes most is Senator Swanson, of Virginia, a consistent advocate of reasonable naval preparedness.

The great appropriations bills, of which the Naval Appropriations Bill is one, sometimes give rise to acute differences between Senate and House. When the House bill has been radically amended in the Senate and conferees meet to consider the problem thus presented, heated discussion often ensues, and the Senate conferees and the House conferees eye one another across the table like French and German delegates at Versailles. An acute difference of this sort arose in my time in connection with the cruiser-building program. President Coolidge and the House were opposed to beginning work on certain 10,000-ton cruisers, the building of which had previously been authorized. The Senate, feeling sure that, whatever limitation of armaments might come, these ships would be well within our quota, inserted by amendment the necessary appropriation item. Senator Hale, of Maine, the diligent and able chairman of the Senate Committee on Naval Affairs, Senator Swanson, of Virginia, the ranking Democrat on the committee, and I, as ranking Republican member, were among the Senate conferees. We had the hard task of maintaining our position against both the President and the House, but the soundness of the Senate view was finally recognized and the appropriation was made. Some of the public comment on my part in this work convinced me that it is often necessary to be charged with bloodthirstiness and a militaristic spirit to secure even the minimum requisites of national defense.

The work of the select Committee on Revision of the Laws, though technical and laborious, was of less general interest. It will undoubtedly surprise many to learn that a single volume can contain all the general and per-

manent legislation passed by Congress since 1789. The volume is, of course, a large one, and contains, as now printed, 1718 pages. The preparation of this code was a tremendous undertaking. When introduced in the form of a bill, the code was a formidable document. Senate rules provide that any member can demand that a pending measure be read from beginning to end. By exercising or threatening to exercise this right, Senator Howell, of Nebraska, succeeded in preventing action upon a voluminous bill for the payment to American claimants of the old French Spoliation Claims. Any one senator could similarly have prevented a vote upon the bill to authorize the code; a threatening possibility which we faced throughout the whole period of the bill's legislative history. Senator Ernst, of Kentucky, chairman of the committee, had charged me with the responsibility of explaining the bill and bringing it to a vote. Every serious objection had to be met, either by concession or by satisfactory answer, and it was a nervous time for those of us who had labored long and hard upon the measure. Largely through the coöperation of Senator Walsh, of Montana, and, in the House, of Representative Fitzgerald, of Ohio, the bill was passed, and the United States Code is now an indispensable tool in every court and law office.

In the Banking and Currency Committee my most interesting and important experience centered on the so-called McFadden-Pepper Bill, which was intended to liberalize the charters of national banks, to reconcile conflicting views on branch banking and to extend the charters of Federal Reserve Banks which were soon to expire by limitation. Simultaneously with its appearance in the Senate, it was introduced in the House by Representative Louis T. McFadden, of Pennsylvania, the able

and experienced chairman of the House Committee on Banking and Currency. I presided at many public Senate hearings on this measure when it was in committee, and had charge of it on the Senate floor. The prospect of bringing it to a vote was dimmed by the obstruction of Senator Bob La Follette and others who were supporting the McNary-Haugen Bill, famous for its highly controversial scheme of farm relief. I had just about decided to resort to cloture and had a petition to close the debate signed by a sufficient number of senators, when Vice-President Dawes, perceiving the deadlock, sent for representatives of the opposing groups. We met one evening in his room. By the sheer force of his personality he forced an agreement that both measures should be voted upon. This agreement was carried out. Both bills passed. The McNary-Haugen Bill was vetoed by President Coolidge while the McFadden-Pepper Bill became law. To General Dawes more than to any other one man credit is due for the extension of the Federal Reserve charters.

The fact that the Library of Congress Committee was charged with the care and preservation not only of art and literary treasures but, in some degree, of the physical beauty of Washington as well, made my chairmanship a most interesting experience. The central feature of the famous l'Enfant Plan for beautifying Washington is the Mall, the magnificent parkway which will extend from the Capitol past the Washington Monument and the Lincoln Memorial, and then sweep over the Memorial Bridge to the Grave of the Unknown Soldier at Arlington. At the Capitol end the Mall is obstructed by the Botanical Garden, which will soon be moved to a neighboring and more eligible site. I shall never forget

the dismay with which I learned one day that in the House an item had been inserted in an appropriation bill providing for the reconstruction and permanent location of the garden in its obstructive position. The bill was about to pass. I felt sure that the Budget Officer and the President had approved the item without realizing its significance. I hailed a taxi, hurried to the White House and explained the situation to President Harding. He at once directed his secretary, George Christian, to call up Representative Madden, chairman of the House Committee on Appropriations. This was done, and as a result of their telephone conversation the item was stricken out and the integrity of the Mall assured.

Another accomplishment of the Library Committee during that period was to open the way for the development of a great national arboretum, for which the latitude of Washington is ideal. The valley of the Anacostia River, which flows through the District of Columbia and empties into the Potomac, possesses a soil particularly favorable for such a development. If this valley had not been appropriated for this use, it soon would have become the scene of a building operation. I look back with satisfaction not unmixed with amusement at the long struggle we had to get for the bill—which I introduced at the request of Mrs. Frank B. Noyes—the approval of the Budget Officer and of the President. It was a struggle between the laudable desire for economy and the still more laudable determination to provide for Washington what will in time become one of its most interesting and important institutions. After many vicissitudes the bill was passed and the Secretary of Agriculture received the necessary authority to save the land for government use.

With the development of the Library of Congress itself, the committee was equally concerned. Dr. Herbert Putnam, the talented and efficient librarian, has been for years developing plans to make this great institution not merely a storehouse of books but a radiating center of culture. Individual donors, in increasing numbers, were tendering endowments for various related activities. A conspicuous instance was the generous offer of Mrs. Archibald Coolidge to build an auditorium for chamber music and to provide for the rendering there of the best that the world has to offer. The problem before my committee was to provide a legal way to accept such gifts and to administer them effectively when made. We evolved the idea of the Library of Congress Trust Fund, and I embodied it in a carefully drafted bill. This was duly passed, and I learn from Dr. Putnam that the machinery thus set up is working to his entire satisfaction.

Apart from bills requiring my special attention either as their sponsor or as a member of the committee to which they were assigned, many measures of major importance were before the Senate during my membership. Tax reduction—to my mind one of the great and gratifying accomplishments of the past decade—impressed itself on me as the outcome of careful planning, excellent teamwork and good housekeeping. The businesslike handling of American finance by the Secretary of the Treasury, Andrew W. Mellon, the budget system and the coöperation of Congress brought about a surplus sufficiently large to permit of material lowering of taxes. Those of us who participated in the Senate's share of the undertaking and who helped frame the legislation that contributed to it came to regard the Coolidge Administration's success

in reducing taxes as one of the constructive achievements of the reconstruction period.

An experience described to me by Mr. Mellon illustrates the interest which President Coolidge showed from the beginning in the financial program of his Administration. Immediately after Mr. Coolidge became President, Mr. Mellon called on him with a written resignation in his pocket, as is customary among cabinet officers when a new Chief Executive assumes office. He is thus assured of complete freedom of choice in the selection of his official family. After greeting the Secretary of the Treasury cordially, Mr. Coolidge plunged into a discussion of the entire financial system of the Government and displayed an accuracy and breadth of knowledge which took Mr. Mellon by surprise. The interview was so interesting that not until he reached the anteroom after its conclusion did Mr. Mellon remember that he had not offered his resignation. Reëntering Mr. Coolidge's office he said:

"Mr. President, I neglected to tell you that I had come to resign."

"Forget it," said the President. And, fortunately for the country, Mr. Mellon did. It is impossible to repress a smile when from time to time some sniper undertakes to minimize Mr. Mellon's masterly Treasury operations by describing them as sums in simple arithmetic.

One of the difficult positions in which a senator can find himself is when his commitment to a certain piece of legislation comes in conflict with his sense of duty to support the President as a responsible executive and the leader of the party. An interesting illustration of this situation occurred in the case of the measure for an increase of pay to postal employes, enacted early in my

term. I had given my pledge to the postal employes of the Government that I would support the bill to increase their salaries. Accordingly I voted for a bill designed to accomplish this purpose. The bill was, however, vetoed by the President on the ground that it failed to make provision for the raising of postal rates to meet the increased expenditure. I felt it my duty to support the President when an unsuccessful attempt was made to override his veto. I redeemed my pledge to the men, however, by taking part at once in formulating and enacting a substitute measure containing the requisite revenue features. Such a measure was finally passed and received presidential approval.

The effort to pass a bill against determined opposition often brings on a battle of wits. One such conflict occurred when I had charge of a House bill for the payment to Bethlehem Steel workers of the wartime pay which had been awarded to them by the War Labor Board. The condition of Senate business was such that the bill could not be considered except by unanimous consent. One senator objected every time the calendar was called. Finally he agreed to allow the bill to be considered provided an amendment was made which really defeated the whole purpose of the bill. I agreed and the bill was passed as amended. It then went to a conference committee of the two Houses. The conferees rejected the destructive amendment and the bill was reported back to both Houses in its original form. Since a conference report is privileged and its consideration cannot be blocked by a single objection, the report was considered, the bill was passed and the workers got their pay.

One of my most interesting experiences while in the Senate occurred when the Supreme Court of the United

States invited me to make the argument in support of the power of Congress in a case then pending before it. When Congress by law creates an office, prescribes its duties, fixes its term, provides that the incumbent shall be appointed by the President by and with the consent of the Senate, and that he shall be removable by the President only with the consent of both Houses or of the Senate alone, may the President ignore the requirement last specified and remove the officer at his own pleasure? That question has been debated ever since 1789, and was before the Court in the case in question. Sixty years ago President Johnson held that the executive had an inherent right of removal and he refused to be bound by a restriction of this sort in the Tenure of Office Act. His disregard of this act was the most important charge against him when he was impeached by the House of Representatives. When the Budget Act was passed in President Wilson's time, it provided that the Budget Officer should be removable only by impeachment or by the concurrent action of both Houses. President Wilson vetoed the bill because he, too, championed unrestrained executive powers. When, however, the present Budget Act was passed in President Harding's Administration, he signed it. President Wilson, true to his convictions, had removed Myers, a postmaster, without the consent of the Senate, although the act creating the office which Myers held required such consent as essential to a valid removal. Myers sued for his salary. Thus the question, after one hundred and thirty-seven years of Congressional debate, was for the first time squarely presented to the Supreme Court of the United States. The case was argued for the President by the Honorable James M.

Beck, then Solicitor-General, while I represented the Congress.

The amount of study and historical research involved in preparing and arguing the case was very great. In recognition of this I was honored by receiving the thanks of the Court, thus expressed in the opinion of the Chief Justice:

> Before closing this opinion, we wish to express the obligation of the Court to Mr. Pepper for his able brief and argument as a friend of the Court. Undertaken at our request, our obligation is none the less if we find ourselves obliged to take a view adverse to his. The strong presentation of arguments against the conclusion of the Court is of the utmost value in enabling the Court to satisfy itself that it has fully considered all that can be said.

This recognition was the more highly appreciated because, as I am told, it was the first expression of this sort in the Court's history.

A divided court, by a vote of six justices to three, decided in favor of the President's power to disregard the legislative restriction and to remove an officer at pleasure. I venture the prediction that the question involved in the case has not been disposed of for all time. The views announced by the dissenting justices will sooner or later have to be reckoned with.*

* Mr. Justice Holmes, Mr. Justice McReynolds, and Mr. Justice Brandeis. See 272 U. S., p. 52 (1926).

# VII

## THE FILIBUSTER

ONE of the perplexities which disturb the visitor in the gallery is that quaint feature of senate procedure known as the Filibuster.

Let it be supposed that the business officially before the Senate at a given time is a bill dealing with some important but prosaic subject. A bill to amend the National Banking Act may serve as an illustration. A bank president deeply interested in the measure takes his seat in the gallery to listen to the debate and to await the vote.

The senator who happens to have the floor is commenting at length on some recent act or utterance of the President or of a cabinet officer and is criticizing them in harsh or even in violent terms. The visitor waits a reasonable time for the speaker to refer to banking or to make some application of his remarks to the question before the Senate. He waits in vain. The senator is not discussing the banking bill and has no idea of doing so. Why is he not called to order? He is not out of order. There is no rule of relevancy in the Senate. Unless by consent a special regulation has been made applicable to the pending question, any senator may speak on any subject he pleases and as long as he wants. "Why not amend the rules?" the visitor inquires. He is told that the Senate has always hesitated to adopt a rule empowering the presiding officer to decide whether or not the re-

marks of a senator are relevant to the issue. On an appeal to the Senate from a decision that the remarks are irrelevant, a bare majority might, it is said, sustain a gag ruling in the crisis of an important debate. The visitor is perhaps also reminded by a senator who has accompanied him into the gallery that the Senate is, among other things, a forum in which senators may ventilate their views at pleasure and on any subject; that while forbidden by senate rule to refer offensively to any state of the Union or to impute unworthy motives or conduct to one another, there is no such rule restraining them when they criticize or attack other officers of Government or even the President himself; and that, in the opinion of many, this liberty of speech is in the nature of a safety-valve and may even be at times a substitute for revolution. "Had there been a Senate in Russia," the visitor may be told, "the fires that smouldered long and burst forth all at once and with such terrible effect might have spent themselves harmlessly one by one and at intervals."

The visitor who is interested in the banking bill is possibly not convinced by this historical speculation. He is apt to enquire what is the probable motive which actuates the speaking senator to launch his attack upon the President and cabinet at this particular time. If the answer is that the senator has no special hostility to the banking bill, or is actually in favor of its passage, the only reasonable explanation of his course is that he is speaking either from sincere conviction or for partisan political effect. If, on the other hand, there is reason to believe that he is vehemently opposed to the pending bill and fears that a majority will vote in its favor, there is some ground for inferring that the speaker is engaged

in a filibuster against the measure; i.e., is using the right of debate, not to clarify the issue or to enforce his own views, but to postpone as long as he can the opportunity of the majority to enact the measure. It is, of course, a well-known fact that filibusters have been organized and carried on at various times both by individual senators and by political parties and often with deadly effect. Especially when every second year the life of a Congress must end on March 4th, it is possible for a well-organized group so to maneuver during the closing days of the session as to make a vote altogether impossible.

"Is there no rule," the persistent visitor asks, "by which a majority of the Senate can force a measure to a vote when they honestly believe that the delay in reaching a vote is due to the existence of a filibuster rather than to a bona fide desire for further discussion?" His attention is called to Senate Rule XXII, which is as follows:

> If at any time a motion, signed by sixteen Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the presiding officer shall at once state the motion to the Senate, and one hour after the Senate meets, on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the presiding officer shall, without debate, submit to the Senate by an aye-and-nay vote the question:
>
> "Is it the sense of the Senate that the debate shall be brought to a close?"
>
> And if that question shall be decided in the affirmative by a two-thirds vote of those voting, then said measure shall be the unfinished business to the exclusion of all other business until disposed of.
>
> Thereafter no Senator shall be entitled to speak in all more than one hour on the pending measure, the amendments thereto, and motions affecting the same, and it shall be the duty of the presiding officer to keep the time of each Senator who speaks.

Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion or dilatory amendment or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the presiding officer shall be decided without debate.

This rule, it will be observed, provides a method by which two-thirds of the Senate can terminate debate and secure a vote. This is cloture. It is then explained to the visitor that it was to substitute a fifty-one percent cloture for a sixty-six percent cloture that General Dawes, when Vice-President, launched a campaign. "Will the campaign eventually be successful?" the visitor inquires. His senatorial friend is not sure. The change is not popular in the Senate but it is very popular at home. Why the distinction? Because most senators think that they better than their constituents understand how the Senate should be run; while practically all constituents are sure that their own view of the subject is the correct one. If popular opinion is definitely and persistently in favor of majority cloture, of course, in the end the action of the Senate will be responsive to it.

While the visitor interested in the prompt passage of the banking bill is praying that more strength be given to those who seek the reform, it will be well to review the arguments advanced on either side of the proposal.

The Senate, under the Constitution, has several important duties to discharge. It occasionally sits as a court of impeachment. It must advise and consent to the appointment by the President of various sorts of public officers. It must perform a like function in respect to the ratification of treaties negotiated by the Executive. It

must share with the House of Representatives responsibility for all the legislation of Congress.

The filibuster may be resorted to in order to prevent confirmation of a presidential appointment, in order to block the ratification of a treaty or in order to defeat a legislative measure.

My observation is that, in the case of nominations, the danger is apparent rather than real. Sooner or later a vote is certain to be reached. The intervening debate helps uniformly to clear the air. If it were to become evident that obstruction was being attempted Rule XXII might be successfully invoked as it stands. There are always some minority senators who are reluctant to embarrass the President in the matter of appointments. Such action sets a precedent for which they themselves might suffer when political fortunes have changed.

In the case of a treaty, ratification requires the concurrence of two-thirds of the senators present. If two-thirds are actually eager to vote for ratification, Rule XXII as it stands will effectually serve their purpose. If a 51 percent cloture rule were in effect, I can think of only one situation in which a vote could be forced more effectively than under Rule XXII. That is the situation in which some senators intend to vote for ratification in case a vote is reached but are sufficiently in doubt about the merits of the treaty to prefer that no vote be taken at all. My judgment is that a bare majority ought not to have it in their power to accomplish ratification by forcing these reluctant senators to vote. Unless the treaty can command the convinced support of the constitutional majority it had better lapse.

During the special session of March of 1925 the question arose whether or not the Senate would advise and

consent to the ratification of the treaty with Cuba concerning title to the Isle of Pines. I had been put in charge of the measure on the floor by the Chairman of the Committee on Foreign Relations. After a debate upon the merits it became evident that a minority filibuster was being developed. It was equally evident, however, that two-thirds of the Senate were ready to vote in favor of ratification. Accordingly we prepared a form of motion for cloture under Rule XXII and had it signed by the requisite number of Senators. In the belief that we were sure of the votes needed for ratification, we held the motion in reserve for use in case the filibuster could not otherwise be suppressed. In point of fact, it gradually flickered and went out so that the motion was never actually presented. But the incident shows that cloture is available when the case for ratification is clear. And my own judgment is that, if the case is not clear, ratification by majority cloture would be undesirable. As applicable to treaties, therefore, as well as to executive nominations, I should not be in favor of changing the present rule.

The legislative field is the true battle ground.

General Dawes thus put the case in favor of majority cloture in connection with legislation:

> In the last five Congresses the Senate bills and resolutions passed by the Senate, with ninety-six members, exceeded by 182 the House bills and resolutions passed by the House, with 435 members. The exact figures are 3113 for the Senate and 2931 for the House.
>
> But more significant even than this, as evidence of the inevitable exactions of selfish human nature when given a chance, is the fact that the Senate passed these 3113 bills and resolutions out of a total of 29,332 introduced, while the House passed its smaller number of 2931 out of a total of 82,632 introduced.
>
> During the last five Congresses, therefore, the Senate passed

ten and one-half per cent of the bills and resolutions introduced in the Senate while the House of Representatives passed only three and one-half per cent of the bills and resolutions introduced in the House. In other words, of bills and resolutions introduced, the Senate, without effective cloture, passed in proportion three times as many as did the House of Representatives, with cloture.

There have been vague claims made by the opponents of reform in the Senate rules, that the absence of effective cloture tended to prevent multiplicity of laws. My contention is that the figures I have given establish the fact that the absence of effective cloture tends to increase the number of laws.

As a result of the consuming of time which the Senate has for constructive legislation by efforts of the minority, through frivolous and unlimited oratory, to obstruct the responsible majority, it becomes necessary that there be occasional outbursts of speed by the Senate in passing bills on the calendar and jamming through appropriation bills. These outbursts of speed are a dangerous reaction from the cumulative inaction preceding them. Individual Senators have bills on the calendar in which they are interested, as well as items in appropriation bills. The forces of normal action are held in check by some obstruction until the reaction comes with a rush that does not make for due or wise consideration. To pass bills in less time that it takes to read them, especially in the case of appropriation bills carrying hundreds of millions of dollars, after spending days on a revenue bill or a tariff bill, demonstrates the necessity of so amending the rules of the Senate as to bring about a proper application of time to the consideration of all its business.

Over against these considerations Senator Norris of Nebraska marshaled his contention that the filibuster is formidable only in those short sessions of the Senate which under the Constitution expire on the fourth of March. He favors a constitutional amendment providing that Congressmen and Senators elected in November shall take their seats in January instead of allowing, as at present, Congressmen and Senators defeated in November to function until the fourth of March. "If," said Senator Norris, "this proposed amendment were agreed to, then after we have had an election and a Con-

gress convened in January, it would be the Congress that had been elected in the November election, a Congress fresh from the people, a Congress representing the ideas of the citizenship as expressed at the ballot box. No limitation of a session would exist, and no filibuster would even be attempted."

Senator Moses of New Hampshire has advanced his reasons for thinking that the alleged evil of the filibuster is really not an evil at all. He holds that if there is an evil the remedy proposed by Senator Norris is the proper one to apply.

When the arguments pro and con are reviewed, it appears to me that the facts cited by General Dawes, give rise to a presumption in favor of reform. If this presumption is rebutted by Senator Norris and by Senator Moses it is only by invoking a constitutional amendment not yet adopted and, if ultimately adopted, necessarily inoperative for a long time to come. When these able Senators point to Rule XXII as sufficiently effective for legislative purposes, they are tacitly assuming that the Constitution of the United States intends that legislation can be enacted only with the concurrence of two-thirds of the Senate. An assumption which in this respect assimilates the enactment of laws to the ratification of treaties is without foundation of fact. If Rule XXII is the proper measure of majority power, it must be conceded that the Senate, by permitting unregulated debate and by requiring a 66 per cent majority to terminate it, has in effect so amended the Constitution as to enable a 34 per cent minority to do to a legislative measure what they may do to a treaty. It seems to me that this is an unjustifiable use of the rule-making power and I am

therefore in favor of amendment to correct the abuse but operative in the field of legislation only.

Meanwhile the visiting bank president is still sitting in the gallery and the speaking senator is still discussing everything except the pending measure. "What are the chances," asks the perplexed visitor, "that this much-needed reform will prevail?" His companion thinks it depends upon the amount of pressure exerted by constituents upon their senators. There is likely to be strong opposition to change on the part of those southern men who fear the enactment of an anti-lynching bill or some measure deemed by them unconstitutional. They regard the filibuster as their first line of defense and will be slow to outlaw it. It was understood that General Dawes favored an exception to the rule, applicable to cases in which the question of constitutionality is raised. It would be difficult, however, to draft the exception in such a way as not to defeat the reform. A question of constitutionality can be injected into almost every legislative discussion. Who is to decide whether the case is within the new rule or within the suggested exception? It would seem wiser to make the reform applicable to all legislative measures and to press for its adoption notwithstanding sectional opposition.

# VIII

## THE WORLD COURT

IN PRECEDING chapters I have referred to two subjects, each of which, in my opinion, is worthy of more detailed discussion than is possible in a condensed summary of legislative activity. These are: first, the Permanent Court of International Justice, or so-called World Court; and second, the various difficulties attending international conferences both at home and abroad. To each I shall devote a brief chapter discussing its significance and development in the light of my own experience as a senator and as a student of international law.

The Permanent Court of International Justice, popularly called the World Court, exists in virtue of a treaty, called the Protocol, signed after the war by a large number of nations. Four years ago the Senate of the United States voted in favor of the signature of this treaty by the United States upon terms then believed to be essential to the protection of our national interests. One of these terms was unacceptable to some of the nations that had already signed. But for the objection thus raised, the adherence of the United States would have been consummated long ago. In the meantime, the Senate has stood its ground, and the condition regarded abroad as objectionable still stands as a clean-cut statement of our position.

These objecting powers, however, though unwilling to accept the condition imposed by the Senate, have

amended the Protocol and the statute, or constitution, of the Court and have succeeded in persuading our State Department that their amendments mean precisely the same thing as the Senate condition means. In other words, with a subtlety characteristic of Old World diplomacy, these powers assure us that they mean exactly what we mean, but insist that the meaning shall be expressed in language chosen by them and not by us. Acting on the advice of our State Department, the President has approved the acceptance of their assurance, and by his authority our diplomatic representative in Switzerland has actually signed the name of the United States to the amended Protocol of the Court and to the supplementary Protocol amending the statute of the Court. This act is in law the making of a treaty, and it therefore remains inoperative unless and until it is ratified by the Senate. The question of ratification will in due time come before that body. Meanwhile, with profound respect for the opinion of the President and his advisers, I desire to register my conviction that the amendments so adroitly offered as substitutes for the Senate condition actually fall far short of giving us adequate protection against League entanglement. There is now under way in this country a lavishly financed and highly organized campaign to slip us into the League of Nations. The abandonment of the Senate condition would make a breach in our line of defense. The breach looks small at first, but, like a leak in the dike, it will result in inundation unless we plug it promptly.

In this chapter I seek to present the reasons which have led me to the conclusion just stated. I address myself to Americans who prefer to do their own thinking upon public questions rather than to accept blindly

the opinions of those in authority. I do not address myself to those who think it uncivilized and antisocial to scrutinize a treaty between nations as carefully as if it were a business contract between corporations. After all, a nation has its own interests to conserve just as a business corporation has. A treaty is a contract; and though friendliness and good nature are admirable both in international and in intercorporate relations, yet each word in a contract must be studied and each sentence weighed lest present friendliness be replaced by future warfare. An international settlement must be either business or a love feast. If the latter, we should not have a treaty. All we need to do in that event is to embrace effusively and swear undying friendship. There are in America plenty of people who as stockholders in a corporation would violently attack their directors for making with another corporation the same sort of treaty that they are eager for the United States to make with foreign powers. I fear that such people will be irritated by this chapter rather than helped by it.

I begin by pointing out that the judges of the World Court as now organized undertake to combine and at different times to perform two very dissimilar functions. One of them is to sit as a court of justice, hearing and deciding such international controversies as disputing nations refer to them. The other is to act together as the legal advisers of the League of Nations. The former function is one which all judges perform when they sit to do justice between litigants. The latter is such a service as an attorney-general renders to his government when his chief calls on him for an opinion. The former function is purely legal. The latter is partly legal and partly political. The legal adviser of a Republican or a Demo-

cratic President is expected to support as far as possible the administration of which he is a part. The general counsel of a great corporation sees things from the corporate point of view and you call him a corporation lawyer. The legal adviser of the League of Nations must naturally and properly function as the attorney-general of the League. He must effectuate its policy as far as this may conscientiously be done.

It is this semipolitical function which leads Judge de Bustamante to say that "the Court is the advisory organ of the League of Nations." No amount of indignant assertion that judges cannot be thus drawn into politics suffices to relieve the situation. The instant you impose upon a Court the duty of advising a political body, you inject into the Court the germ of disaster. It is this dangerous and unwise attempt to combine the judicial function performed by the Court for litigants with the advisory function thus to be performed for the League which prompted that distinguished American jurist, John Bassett Moore, lately a judge of the World Court, to say that its advisory function is "admittedly inconsistent with and potentially destructive of the judicial character with which the Court has undoubtedly been invested." In England an ancient usage gave the King and the House of Lords the right to demand an opinion of the King's judges upon legal or legislative questions. The attempt of the political end of the government to assert supremacy over the judges wrote many unhappy chapters into English history. The effort to transfer the practice of advisory opinions into the American judicial system has happily failed. In only seven states did the practice gain a foothold, and even in them the governors have never had such a call upon the courts as that to which the

World Court is subjected by the Fourteenth Article of the League Covenant. The people of the United States have definitely decided that their Government shall not enter the League of Nations. The same reasons which prompted that wise decision make it imperative that if we adhere to the World Court we should do so only upon terms which protect us against the political consequences of supporting the legal adviser of a body with which we have decided not to become entangled.

No such effort at protection was made by President Harding when, on February 24, 1923, he sent a message to the Senate calling attention to the question of adherence to the Court. As part of his message he sent a letter from the then Secretary of State, proposing four conditions of adherence. No one of these conditions dealt with the point now in controversy. If we had adhered to the Court upon the terms thus proposed, we should today be involved in the entanglements against which it is happily not too late to protect ourselves.

It was in order to secure for the United States that which the Harding proposals failed to provide that the Senate, on January 27, 1926, when adopting the resolution of adherence by a vote of 76 to 17, included among others the following condition of adherence:

> V. That the Court shall not . . . without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.

There is no room for misunderstanding the meaning of the resolution of adherence with this condition embedded in it. The United States thereby plainly expresses its willingness to support the Permanent Court and to leave it free to discharge the great and useful judicial

function for which it was created. With equal definiteness, however, the United States declares that in a case in which we claim an interest, the League of Nations is not to be allowed to work its way into the controversy by a demand upon the Court for its advice. The real significance of the Senate condition is not that it imposes an arbitrary limitation upon the Court but that it protects both the Court and the United States from the use of the Court by the League as an opening through which the League may intermeddle in a controversy between sovereign states.

From the day the Senate laid down this condition to the present time no responsible person has, as far as I know, advanced any reason whatever why the parties to the Protocol should not be satisfied with this condition. In making this assertion I have in mind the fact that the amendments recently made to the Protocol and to the statute of the Court are alleged to have an effect equivalent to the effect of the Senate condition. If those who make this contention are right, then the Senate is being asked to rescind its own resolution, drawn in language of its own choosing, and pass another resolution, wordy, obscure and ambiguous, but asserted by those who favor it to have the same meaning as the one which it is to supersede. It seems to me that the time has come when senators of all shades of thought should have the courage to refuse to make such an unreasonable substitution. If, as I contend, the proposed substitute falls far short of the protection afforded the United States by the Senate condition, that is a still stronger reason why senators should refuse to accept it. The best way to test the efficacy of the substitute is to picture a future international controversy and then compare the

Senate condition and the substitute in their application to the facts thus pictured. In stating such an imaginary case it is hardly necessary to say that the designation of the disputants is merely for the purpose of illustration and contains no implication that the particular controversy thus imagined will ever become a real one.

Suppose a dispute were to arise between Mexico and Japan respecting a large amount of territory in Mexico, near our border, claimed to have been acquired by Japanese subjects. Suppose that feeling ran high and that the dispute was not referred by Mexico and Japan to the World Court. Suppose that the Council of the League of Nations, sitting in Geneva, should be of opinion that it would conduce to the peace of the world to have the World Court advise whether Japan or Mexico was right and were to call upon its advisory organ to act. Further suppose that although no protest was forthcoming from either disputant, yet the United States were to believe that action by the Court—no matter what its decision might be—would be like dropping a lighted match into a powder magazine. Finally, suppose that the United States were to claim a neighbor's interest in the question and were to register with the Court a formal objection to the League's call for advice. From the point of view of the United States, what effect is it desirable that our objection should have?

Under the operation of the Senate condition the Court would be deprived of power even to entertain the League's request. This is clear to the point of demonstration, and it is precisely the result which common sense would dictate. There would be no temptation to the League or any of its members to bring pressure to bear upon the Court or to create atmosphere favorable to any

particular solution of the problem involved. The Court would be relieved of all this and could never have anything to do with the dispute unless and until the disputants, of their own free will and accord, were to submit the controversy to the Court for orderly hearing and determination.

As compared with this clean-cut and effective way of dealing with a dangerous situation, the recent amendment to the Protocol provides for notice to us of the request by the League for advice from the Court, for the respectful consideration of our protest against such request, for an opportunity to present our reasons in support of it, for our right to withdraw our support from the Court "without any imputation of unfriendliness" if our protest is not sustained, and, after all, leaves the League free to urge the Court to apply the match to the powder magazine. It is hard for me to understand how anybody with worldly wisdom can possibly be of the opinion that to risk a destructive explosion is as likely to preserve the peace of the world as to prevent the explosion from occurring. I note with something like indignation the disingenuous language in which this amendment to the Protocol is framed. Its preamble recites that the signatories "have mutually agreed upon the following provisions regarding the adherence of the United States of America to the said Protocol subject to the five reservations formulated by the United States in the resolution adopted by the Senate on January 27, 1926."

Article 5 of the amendment begins thus: "With a view to insuring that the Court shall not, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest. . . ."

The incautious reader is by this language led to assume that the amendment is about to write the Senate condition into the Protocol. Instead of doing this, however, the amendment proceeds to emasculate the Senate condition by leaving the Court free to disregard our protest and, by emasculating it, falsifies the very declaration with which the amendment itself begins. It is significant that our own State Department was evidently misled by this trick of language, for in the Department's letter of November 18, 1929, to the President, the latter is informed that the conditions set out in the resolution of the Senate had been accepted at Geneva by the amendment to the Protocol. It is subtlety which results in such a mistake as this against which the Senate should be on its guard when it comes to examine the amendment to the statute of the Court to which I next invite attention.

I have specified the danger to be guarded against. I have pointed out that the Harding reservations wholly failed to provide a safeguard. I have shown that the condition of adherence insisted upon by the Senate deals effectively with the danger by preventing it from occurring. I have further shown that the recent amendment to the Protocol of the Court wholly fails to prevent the danger and merely gives to the United States a right which it would have had at any rate—the right, namely, to withdraw its adherence if its solemn protest were disregarded. I now come to the contention that the inadequacy of the amendment to the Procotol has been effectively supplemented by the following amendment to the statute of the Court: "In the exercise of its advisory function the Court shall further be guided by the provisions of the statute which apply to contentious cases to the extent which it recognizes them to be applicable." By

a "contentious case" is meant a case which disputing nations have voluntarily referred to the Court for hearing and decision.

Since the jurisdiction of the Court to entertain and decide contentious cases depends upon the consent of the parties to the contention, it is now gravely asserted by the framers of this amendment that the language above quoted binds the Court not to entertain a demand from the League of Nations for an advisory opinion unless the nations claiming an interest in the controversy consent that the Court shall comply with the demand. If language means anything, the language of the amendment leaves the Court free to determine whether or not it recognizes this element of consent as applicable. There are many provisions in the statute which apply to contentious cases. The amendment declares in so many words that in the case of its advisory function the Court shall be guided by these provisions "to the extent which it—the Court itself—recognizes them to be applicable." This necessarily means that when called upon for an advisory opinion in a particular case, the Court is to determine for itself whether one, two, three, four or all of the provisions applicable to contentious cases are to be applied to the case that is not contentious. If the Court, upon a given state of facts, declines to recognize the element of consent as applicable, it is left as absolutely free to comply with the demand and give the advice as if this amendment to the statute had never been written.

It is argued, however, that in a case decided by the Court some time ago it actually recognized the necessity of general consent by refusing to render an opinion in the absence of the consent of one of the parties to the dispute. In other words, it is solemnly asserted by the

proponents of the amendment that because in one case in the past the Court has recognized consent as necessary, it is deprived of the freedom given it by the amendment to determine in future cases the extent to which it will recognize the element of consent as applicable. Other people may be satisfied by such reasoning. To me, it sounds like the merest sophistry.

The case relied upon as depriving the Court of the element of discretion plainly given to it by the amendment was what is known as the Eastern Karelia case. This was a dispute respecting the effect of the treaty of Dorpat between Finland and Russia. The disputing nations did not refer the dispute to the Court. The Council of the League of Nations, however, called upon the Court for an advisory opinion. The Russian Soviet Government, with an acumen which might be imitated by governments in better standing, sent a telegram to the president of the Court refusing to take any part in the proceedings because it considered them as "without legal value either in substance or in form." An acute difference of opinion thereupon arose among the judges of the Court whether, in the face of this protest, they ought to comply with the demand of the Council of the League. If all the incidents of this controversy among the judges of the Court were ever made public it would doubtless make interesting reading. On July 3, 1923, the Court, by a vote of 6 to 4, declined to give an advisory opinion, "believing," as Judge de Bustamante says, "that the refusal of the Russian Government to lend its assistance made it impossible to complete the investigation of the case which presupposed the consent and the coöperation of both parties." Judge de Bustamante himself was one of the four who voted to entertain the re-

quest to render the opinion in spite of the protest of Russia. Recognizing as a general principle that a nation has no obligation to submit its disputes to a tribunal without its consent, he and the other minority judges were of opinion that that principle was not applicable to a demand emanating from the League.

"The Court," he declares on page 278 of his book,* "is the advisory organ of the League of Nations and it is not easy to understand how it can refuse to give an opinion that is asked for when it is a question of international law that is involved. It is not enough to say that one of the interested parties believes that its intervention is unjustified. A person who is consulted by an organism or a person that has the right to consult him, cannot fold his arms and sit back because of the will or the desire of some other person who may be affected by the consultation, whether or not he is the opponent of the consultant, and whether or not he has some legal or official connection with the person consulted." The decision of the Court was so unwelcome to the Council of the League that in a subsequent report of the Council to the Assembly of the League there was actually included a censure of the Court for its assertion of independence.

The Council thus took precisely the position which the President of the United States might take if he called upon his attorney-general to give him an opinion and the attorney-general declined to comply with the request. When it is remembered that the judges are elected by the League, that they are paid by the League, that the right to demand advice from them is specified in the Fourteenth Article of the Covenant of the League, that

* Antonio Sanchez de Bustamante, *The World Court* (New York: The Macmillan Co., 1925).

the Council believes that the Court is under a duty to act when directed to do so, and that what may have been but a purely temporary minority of the judges of the Court agreed—and presumably still agree—with the view held by the Council, how can any man in full and functionable possession of his faculties believe that the incident thus narrated constitutes such a recognition by the Court of the necessity of general consent as will deprive it in future of the liberty of decision expressly given to it by the amendment?

Even if the discretion freely allowed to the Court by the amended statute were held limited by the Eastern Karelia decision, the decision itself covers only a part of the field of controversy. In that case the dispute was between Finland and Russia, and it was therefore one of the parties to the dispute that objected to the advisory opinion. There is nothing in the case which indicates or even suggests that the Court would have acted as it did if the protest had come from a nation not a party to the controversy. In the supposititious case suggested earlier in this chapter, neither Mexico nor Japan protested. The protest came from the United States, which claimed no other interest in the dispute than our desire to prevent trouble from arising across the border. The Court might be absolutely consistent with its former decision and yet, on this altered state of facts, hold that the principle of consent was inapplicable in the case of a protest by a third party.

I have now stated my reasons for believing that neither the amendment to the Protocol nor the amendment to the statute, nor both of them in combination, can possibly afford to the United States the reasonable and necessary protection against League intrusion secured to

us by the Senate's condition of adherence. It is interesting to reflect that, at the time the Senate acted, a storm of protest was aroused among League advocates and that the Senate condition was denounced as one which other nations could not possibly be expected to accept. Now the method of attack is changed, and is more dangerous because more insidious. It is now said that instead of refusing to accept our condition of adherence, the other powers have accepted it with merely a change in the form of expression. This method of approach has carried League advocates past the executive barrier. The Senate is our last defense.

I have in this chapter discussed the World Court controversy as a single problem in international relations. No international question can, however, be wisely considered without assigning it a proper place in our whole scheme of foreign policy. The foreign policy of the United States can be summed up in three sentences:

1. Interfere as little as possible in the affairs of European nations.

2. Discourage as much as possible interference by European nations in the affairs of the Western Hemisphere.

3. Settle our own disputes peacefully and encourage the peaceful settlement of disputes between other nations as far as we can do so consistently with the two foregoing propositions.

More specifically, these three propositions mean that we should keep out of the League of Nations, stand by the Monroe Doctrine, support the Hague Tribunal, and if we adhere to the World Court, do so upon condition that the League of Nations is not to worm its way into

our controversies by referring them to the judges of the Court without our consent.

The foreign policy thus summarized is usually characterized by people who have what is called an international mind as a policy of provincial aloofness from world affairs. By Americans it is recognized as the course of national conduct most likely to preserve the peace of the world.

# IX

## INTERNATIONAL CONFERENCES

AS I WRITE, the eyes of the world are fixed upon London. By the time this is published, the naval conference now in session there will have adjourned. Only one thing can with certainty be predicted about its outcome, and that is that there will be a wide divergence of opinion respecting the value of its achievements. There will be those who will acclaim it a success and those who will seek to discredit it as a failure. The truth, of course, will lie somewhere between these extremes.

It is not my intention to discuss the conference or the problems with which it is grappling. I refer to it merely as a typical attempt to settle amicably a difficult international question. I use it to give point to some general suggestions respecting conferences called to consider important matters about which nations are not in agreement. My reason for so confidently predicting divergent views respecting the outcome of the London Conference is a simple one. The meeting has from the outset meant different things to different people. There was no consensus of popular opinion respecting its objectives and no general realization of the scope of the issues to be considered. Those who did not know what it was all about cannot reasonably be expected to agree upon an appraisal of results.

One evidence that there was widespread misunderstanding regarding the objectives of the conference is

furnished by the names popularly given to it. It is variously referred to as a Conference on Naval Armaments, a Conference on Limitation of Naval Armaments, a Conference on Reduction of Naval Armaments and a Conference on Disarmament. The term "disarmament" was freely used when the conference was in contemplation. The persistent use of this word undoubtedly encouraged multitudes of people to look hopefully for the actual abandonment of the use of warships. Even Prime Minister MacDonald unwittingly encouraged such a world hope when, in his speech before the League of Nations on September 3, 1929, he continually emphasized disarmament as the objective of the proposed conference. I say "unwittingly" because a careful study of his address satisfies me that by disarmament he meant merely a reduction of existing standards of armament rather than the scuttling of all the warships of the world. Doubtless it was in the sense of reduction rather than of destruction that Secretary Henderson again used the term "disarmament" in the British notes of October 7, 1929, summoning the conference. Be this as it may, the careless or insidious use of so significant a word unquestionably aroused false hopes in the minds of all who are by temperament or on principle opposed to war. President Hoover was much more careful in his choice of words. Both in his speech of acceptance and in his Memorial Day address on May 30, 1929, he avoided all reference to disarmament and spoke merely of carrying the process of limitation of armaments to the point of reducing existing commitments. And although the British note invited the United States to participate in a conference called "to deal with the question of naval disarmament," Secretary of State Stimson, in accepting, was

careful to describe the meeting as "a conference on naval armaments."

In addition to the many who took the disarmament proposal literally were the multitudes who looked confidently for the curtailing of existing commitments for construction and even for the scrapping of vessels built or in building. Others, again, neither hoped for nor desired cancellation of building contracts or the destruction of naval property but looked with confidence for definite and drastic limitations upon future construction and for the establishment of fixed ratios among the navies of all participating powers. All these groups are distinct from those who deprecate limitations and ratios of all sorts and hold that the United States should determine for itself from time to time what its naval program should be.

The inevitableness of dissatisfaction with the actual results of the conference appears when all these points of view are tabulated. The situation somewhat resembles that which would arise if a conference were to be called with reference to the use of alcoholic beverages. The conferees would include those who oppose the use of liquor on moral grounds; those who hold that the use of alcohol is not morally wrong, but that absolute prohibition is socially and economically desirable; those who stand for modified prohibition; those who oppose prohibition, but favor government control of the liquor traffic; those who hold that the whole subject of liquor control should be left to the several states; and those who believe that the self-control of the individual is the only sound solution. It is obvious that little headway would be made at such a conference. Indeed, the pro-

ceedings might so develop as to require the pacifying influence of both Army and Navy.

In addition to divergent ideals of what the success of a conference means, there are all sorts of inherent difficulties of which the public takes little account. Such difficulties become most evident when—as in the case of a conference on armaments—agreements reached by the conferees call for definite governmental action. Economic conferences, meetings in the interest of child life and general welfare, and other conventions which merely utter opinion or make recommendations and adjourn are not beset with nearly so many difficulties. Since the organization of the League of Nations many conferences of various sorts have been held under its auspices. These have met, deliberated, resolved and adjourned. Perhaps the most notable was the World Economic Conference held in 1927. Even if nothing definite happens as the result of such conferences, the participants are left with a sense of achievement and satisfaction, and in an undefined but important way world progress is made, if only with glacial slowness. Indeed, it is the holding of such conferences that has gained for the League a sphere of sufficient influence to compensate for the failure of the purposes for which it was organized.

The original purpose of its founders was thus expressed by President Wilson:

> There is only one way to assure the world of peace—that is, by making it so dangerous to break the peace that no other nation will have the audacity to attempt it.

In other words, the animating ideal was force applied to attain peace. All the machinery of the League was contrived to effect this ideal. By declining to become a party to such a coercive alliance the United States may

be credited with preventing the achievement of so deadly a purpose. The result has been that the League, to justify its existence, has happily been compelled to substitute the ideal of conference and conciliation for that of alliance and coercion. If President Wilson's statement is compared with the listed achievements of the League during its ten years of existence, it will be realized that the most significant provisions of the League Covenant have become obsolete and might with advantage be eliminated by amendment. It is not to be expected that the United States can ever do more than coöperate informally with the League unless adequate revision of its Covenant makes a reassertion of its original aim altogether impossible. If such a concession to candor is ever made by the members of the League and if the United States then becomes a member of the converted association, it will be an interesting question whether the United States has joined the League or whether the League has joined the United States. A distinguished editorial writer recently recorded a wager laid in Geneva that the United States would become a member of the League by 1935. If this should happen, a conference of sportsmen may have to be called to determine whether the bet has been won.

The definite abandonment of the policy of international coercion has thus retraced the backward step taken when the League was formed and has brought the world forward to the point which had been reached when The Hague conferences were convened.

In an era of conference the public virtue most in demand is patience. When conferees represent responsible governments everybody should realize that their words, their acts and the proposals to which they assent must

be such as will be approved at home. There is a perfectly obvious distinction, often overlooked, between the man who can express his opinion without responsibility for consequences and the man who is trustee for millions of people. The solitary thinker, whether he be Grotius, Bentham, Voltaire or your well-informed friend at the club, can formulate a plan for preserving world peace and can, in imagination, take all the steps necessary to effectuate it. If a peace conference is actually called, however, and all sorts of difficulties are suggested by the conferees, the solitary thinker is driven to resent every such suggestion as a perverse and unintelligent interference with the project in hand. The conferees, on the other hand, must have a multitude of considerations in mind which your friend at the club may with impunity disregard. When, at the Naval Conference, Secretary of State Stimson and his colleagues wisely announced that the United States could not purchase French coöperation by yielding to the French demand for some form of security, they were stating what is merely a matter of fact.

No treaty, whether it be a consultative pact or any other, would be likely to command public support if it committed the United States to play even a consultant's part in a European controversy not yet defined or foreseen.

A "consultative pact" is a treaty which binds the parties to consult with one another upon the happening of some event which the treaty specifies. If such a treaty is proposed and approved at a peace conference as a substitute for an alliance based on force, it might be a desirable agreement for nations to sign. If, however, the promise to consult is given to induce a nation to diminish

its protective armament, the treaty, while in form a treaty for consultation, becomes in effect a promise to help with ships, men and money.

If, for example, France were induced to reduce her fleet by our promise to "consult" if her safety were threatened, and if in compliance with our promise we were to respond to a summons to conference, were to attend, discuss the situation and go home leaving France to her fate, we should merit the sure condemnation of all who love fair play. It would not help the situation to point to a provision in the treaty authorizing us thus to withdraw. There are some duties which cannot be waived in advance—and one of them is the sportsman's duty to help a defenseless neighbor who has surrendered his means of defense in consideration of a promise to take counsel respecting his situation if and when threatened by an enemy.

Yet our conferees were bitterly attacked by the representative in London of an American association of solitary thinkers who proceeded to call President Hoover to task for not ignoring so important a factor as the certain disapproval of the people of the United States.

"Why not promise at least to go into conference with other powers in the event of future trouble in Europe?" Such is the question which is petulantly asked by thinkers who have nobody to whom their opinion must be submitted for approval or disapproval. From the point of view of the responsible thinker the answer is obvious. If, when the trouble comes, the United States thinks the circumstances such as to make consultation wise, we may be counted upon to sit in without prior commitment. If, therefore, the United States is asked to promise in advance that it will sit in, the object sought can only be to

bind us to do something which we might deem it unwise to do if uncommitted. It is an effort to make us promise, when the facts are as yet unknown, that we will play a certain part whatever the facts may turn out to be. It is certain that a promise of this sort could not be ratified by the Senate.

"But," says the irresponsible thinker, "the President should be as bold as a lion and should instruct our conferees to act as individuals who are not subject to accountability." Apart from the fact that the President and our conferees are presumably voicing their own convictions as well as those of the nation, is the further fact that even a lion may have discretion as well as boldness. Just what the king of beasts would do if he were aware that a certain trail meant sure death for the lioness, his cubs and himself is a question for big-game hunters to settle. But if the experts decide that he would prefer the path of death to a detour, I suggest that his is a poor standard of conduct for national imitation.

It is often assumed that the failure of conferees to do what the solitary thinker desires is, in some unworthy sense, ascribable to politics back home. It is, of course, true that political considerations are, or ought to be, potent in all international settlements. The very summoning of a conference may be the redemption of a party promise. The choice of the conferees must take some account of political susceptibilities. If, as in the case of France, ministries rise and fall with the tide, it would be absurd for M. Briand or M. Tardieu to take any other position than one that could command home support.

It is true that legitimate political considerations are not the only ones that may affect the progress of a conference. When, after the Great War, certain statesmen

sought votes at home by absurdly extravagant estimates of German indemnity, they placed serious obstacles in the path of the subsequent conferences which faced the problem of reparations. It also often happens that difficulties are adroitly placed in the way of conference by those who do not want the convener of the conference to gain credit by success.

In spite, however, of all the difficulties with which an international conference is beset, it is the only process which holds the hope of peace. Conference may not bring peace, but there will be no peace except after conference. Conference may attain varying degrees of success, but it can never wholly fail. The fact that the conferees meet and strive earnestly to reach a constructive result is itself of tonic value. To the extent that there is disappointment over the result there comes a renewed determination throughout the world to attack the problem again.

I have said that in this connection patience is the virtue most needed. If one intellectual quality is in demand more than another, it is the quality of comprehension, both on the part of the conferees and of the people back home who await the outcome. A conferee is useless unless he can see a situation through the other man's eyes as well as through his own. To the extent that he succeeds in doing this, the possibility of agreement is increased. But, by the same token, a great demand is thus made upon the comprehension of the people at home; for they have not experienced the contacts or lived in the atmosphere of conference out of which agreements develop. The conferees alone know the difficulties which had to be met and overcome. They alone realize that what was done was the best that could be done. They

alone appreciate the necessity of the concessions which they made. The man at home is called upon to judge the results of conference without having the experience by which alone the results were produced. This is why so many treaties fail of ratification in the Senate. The work of the conferees is scrutinized critically. The gains made are underestimated. The concessions made are exaggerated. The treaty which was negotiated by those who were warmed by conference is voted upon by those who are chilled by suspicion. Even so, it is better that some good treaties should be rejected than that bad ones should be too readily accepted. The enthusiasm of conferees may lead to concessions that are really unjustifiable. A critical review of their work is, therefore, of the utmost value. But the solitary thinker is thereby goaded to madness. "If only we could abolish the Senate and substitute me," he exclaims, "righteousness and peace would kiss each other and all would soon be well with the world."

# X

## LOSING THE JOB

AFTER three years in the Senate it became necessary again, as in 1922, to prepare for campaigns for nomination and election. I was serving the term for which Senator Penrose had been elected, and that term expired March 3, 1927. In September of 1925 I began the work of organizing to secure the renomination. This was earlier than is customary, but I wanted to get as much campaigning as possible out of the way before Congress began its sessions in early December. My first step was to consult with W. Harry Baker, chairman of the Republican State Committee, and another friend of wide political experience in regard to a statement announcing my candidacy. Acting in part on their advice, I made my announcement, stating that I wanted to return to the Senate as a representative of the whole state; that I sought the support of the entire state organization, but that I did not want to be regarded as the particular candidate of any one county organization. To this I added later a reiteration of other statements emphasizing my determination to keep judicial offices out of politics.

The statements were received unfavorably by a number of powerful political leaders. In them, such stalwarts saw a double affront. The statements were recognized, first, as a declaration of independence of the Vare-controlled Philadelphia organization, and, second, as a

pronouncement against the vicious doctrine of regularity in the primary, since I openly flouted the theory that it is irregular in such campaigns to oppose the "slated" candidate.

For a while no candidate appeared in the lists against me. It was an open secret, however, that Governor Pinchot, whose term was about to expire, would come out as a contender and that, when he did, Representative William S. Vare would do the like. Pinchot, in due course, announced his candidacy; a step which assured a split in the votes which would normally come to me. Vare lost no time in seizing the opportunity thus afforded and announced his candidacy on an anti-prohibition issue. From the outset everyone with political experience knew that the senatorial campaign was a contest between Vare and me, and that the only effect of Pinchot's candidacy was to handicap me in the struggle. The situation constituted, however, an interesting triangle. I had whatever advantage may be credited to incumbency in the office which we three sought, although I had built no political organization in my own interest. Pinchot, as governor of the state, capitalized the support which four years in that important office had put at his disposal. Vare, as leader of the Philadelphia organization, could count on tremendous support in his home city. His strength was further increased not only by the appeal of his wet platform but by the fact that Pinchot and I would split the prohibition vote. There were multitudes of prohibitionists who took delight in Pinchot's militant utterances as contrasted with my acceptance of the declarations of the Republican platform. With both Pinchot and Vare the prohibition question was a political issue, while to me it presented itself as a social and economic problem, which

could not be solved by violent advocacy of either extreme.

Meanwhile a bigger and more bitter fight was being waged for the nomination of Pinchot's successor in the governorship. Linked up with this nomination were many other candidates, including those for the office of Lieutenant Governor and of Secretary of Internal Affairs. In addition to these, approximately thirty-six candidates for Congress, twenty-five candidates for the State Senate, two hundred and eight candidates for the State House of Representatives, and a multitude of state and local committeemen were to be chosen.

As I have said, when I announced myself for the Republican nomination, I did so as an independent candidate, without relationship to any of those who were seeking nominations to office. My plan was to retain this independence of position until the day of the primary, when, if successful, I would, of course, coöperate wholeheartedly with the Republican ticket in the state. When Pinchot and Vare entered the field as contestants, there was still no reason, so far as I was concerned, for modifying my plans. When, however, various candidates appeared for the gubernatorial nomination, it developed that many men and women all over the state who were united in their support of me were divided in their support of candidates for the governorship. The two strongest candidates for that office were John S. Fisher, the present incumbent, and Edward E. Beidleman. When my friends divided between Beidleman and Fisher, the attempt to associate me with one or the other of these candidates was an effort made not so much in my interest as in the interest of factional success. As the factional fight grew more intense it created a situation in which I

had to make a choice, and my choice inevitably related me to the candidacy of John S. Fisher, for whom I had and shall always retain both admiration and regard. I realized at the time that this could prove costly. The universal experience of senators is that they dare not get their candidacies mixed with the candidacies of state office seekers. Experience has shown that it multiplies their political liabilities and divides their political assets.

Meanwhile an alliance probably of a similar nature was reported to exist between Vare and Beidleman. As far as it was possible to do so, I preserved the distinctiveness of my campaign. I retained my central organization, my chairman, the chairman of my own finance committee and my treasurer. The only campaign fund over which I had any control was devoted to the single pursuit of the senatorial nomination. The campaign for the entire ticket headed by Fisher and me was in hands over which I had no control and represented an effort in the interest of all the men on the ticket. While my own campaign fund was raised and distributed by my friends, the dominating influence in the collection and disbursement of the ticket fund was Joseph R. Grundy, whose friendship I had lost once and for all by my support of W. Harry Baker three years earlier.

Like all primary campaigns in which serious issues and warring ambitions are involved, this developed into a vigorous and expensive one. Personally I made two hundred and thirty-five campaign speeches in addition to numerous statements and other responses to the usual demands for expressions of opinion by office seekers. Thousands of letters were mailed by all the separate candidates, huge advertisements were inserted in periodicals and in newspapers printed in English and in those

printed in foreign languages, posters appeared on billboards and fences throughout the state, men and women were hired as organizers, speakers, publicity directors, watchers at the polls and to perform the various other duties for which political workers in these days expect and receive compensation. It is an interesting reflection that in the political campaigns of today almost every one wants to capitalize his or her party activity for money. When I was young, service at the polls on election day was freely rendered by men who never thought of asking pay for the time thus spent. Today our national absorption in the pursuit of wealth has changed all this. Service to a party appears to be regarded as a legitimate basis for compensation. This economic fact, which, however deplorable, is nevertheless a fact, is lost sight of by many earnest reformers.

The sums of money contributed and spent for the support of opposing tickets in the Pennsylvania primary of 1926 were thus expended to further the nominations of a host of candidates whose appeals were addressed to an aggregate population representing about one-twelfth of the entire population of the United States. At its conclusion, the overwhelming support given to Vare by his Philadelphia organization won him the election with a count of 596,000 votes as against my total of 515,000. As against Vare, I carried sixty-two out of the sixty-seven counties of Pennsylvania and came to Philadelphia with a plurality of more than 140,000, which the support of his local organization converted into a decisive plurality for him. In the gubernatorial campaign, John S. Fisher defeated Edward E. Beidleman. Thus a complete victory was gained by neither ticket.

Naturally, there was talk of trading, of defections

within the ranks and of election-booth irregularities. There were, in other words, the veiled charges of the type that follow every bitterly contested primary fight. Personally I saw no definite proof that these charges were true to any such extent as to change the result of the primary. I accordingly followed the maxim familiar to lawyers, that your first duty is to take your licking like a gentleman. Pinchot, however, brought the charges prominently into the light when, in his official communication as governor, certifying to the Senate the later election of Vare, he made the assertion that the nomination was "partly bought and partly stolen."

After Senator Harry S. New had been defeated in Indiana in a primary contest not wholly unlike mine, he was walking one day down the stairs in the Capitol to the long tunnel that leads to the Senate Office Building. A woman visitor to the Capitol had become bewildered by the network of passageways. Accosting Senator New, she said, "I am trying to get out of the Senate. Can you tell me how to do it?"

Bowing low, he replied, "Madam, I advise you to run in an Indiana primary."

My only criticism of this advice is that it limits unduly the geography of escape.

# XI

## PRINCIPLES IN POLITICS

THERE are times in the life of a public man when it is his duty to rise above principle."

This contribution to political philosophy was made by an able senator to whom I had suggested that principle required a certain course of conduct in a matter which he and I were discussing. He put his hand on my shoulder as he said it and there was a humorous twinkle in his eye. But he meant what he said and his long political experience entitled him to speak with authority. He was merely re-stating in epigrammatic form the maxim that one who seeks public office or desires to retain it cannot afford to act in strict accordance with his convictions unless the result is likely to be a net gain in his vote.

Looking back over my own brief political experience I can see a number of situations, particularly during the preprimary campaign of 1926, in which I might have "risen above principle" and in every such case the question is what would have happened had I done so. I here review these situations, not because my failure to win a Senate renomination was a matter of great importance but because that campaign was a chapter in American political history and is for that reason worth analyzing.

There was, for example, the situation which arose when the opportunity came to state my position on the Prohibition issue. When my candidacy began to attract public attention, I was asked to declare my position upon

this vexed question. I had, and still have, perfectly definite opinions upon it. I accordingly, without the least hesitation, replied to the inquiry as follows:—

I agree that the attitude of many of our citizens toward Prohibition is disappointing and that the resulting lawlessness and discontent should be a matter of grave concern to all of us.

It seems to me, however, that the right view to hold with respect to the Eighteenth Amendment and the enforcement law is that by regular constitutional and legislative processes we have committed ourselves to a nation-wide social experiment. The nature of the experiment is such that in my judgment it must be continued for many many years before its success or failure can be determined. If ultimately there is something like a consensus that the non-alcoholic life is best for an individual and a nation, the experiment will have succeeded. If, on the other hand, there is something like a consensus that the use of alcohol for beverage purposes is a desirable one, both physiologically and socially, then the experiment will have failed. At the present time there is no agreement on this subject, although my estimate is that a very large majority of the people of this country believe that the experiment is well worth making.

In the meantime, I regard it as the duty of a public man to do all that he can by precept, example and vote, to accomplish the purpose of the amendment by framing effective enforcement laws and by insisting upon the faithful execution of them. Consistently with this conviction I cut out the use of alcohol when I went into the Senate and I do not expect to vote in any way inconsistent with the views above expressed. As I am in the legislative department of the Government I have no opportunity to take part in the enforcement of the law for that is an executive duty. To the extent that I can influence the course of events, however, I am doing and expect to do all that I can to see that enforcement is effective and strict.

I venture to suggest to you and your associates that if, while retaining your opinion that the experiment will fail, you will nevertheless do all that you can to make it succeed, you certainly will have lost nothing substantial if ultimately the experiment fails in spite of your support, but you will have gained a very great deal if through your coöperation the success of the experiment is finally demonstrated.

I am sorry that our minds do not meet on this matter but I

am sure that you will recognize it as a great public question respecting which there is room for honest and intelligent difference of opinion.

All my life I had been accustomed to the use of alcohol. I had been brought up to believe that the moral significance of conduct depends upon whether it is the result of compulsion or of an exercise of free will. I, however, realized that we as a nation had, in the matter of drink, used our freedom foolishly and that the Eighteenth Amendment was a reaction against abuse. I felt bound to accept it as such. I saw nothing in the contention that my rights had thereby been violated. A legal right is merely a legally protected interest. If, by constitutional processes, protection of any interest of mine is denied or withdrawn, that is the end of my "right." If I am displeased I may agitate for constitutional change, or start a revolution, or leave the country—or obey the law. I regarded agitation for repeal of the Eighteenth Amendment as at least premature because the Prohibition experiment had not been tried to a conclusion. Neither revolution nor exile appealed to me. I had accordingly accepted law observance as an ordinary civic duty and had lived up to it. The extreme dry repudiates the suggestion that Prohibition is anything but a demonstrated success. The extreme wet believes that it is a disastrous failure. Just as definite as either of these extremes, but differing from them as truth differs from error, is the position that prohibition is still in its experimental stage but that both obedience and enforcement should be invoked to promote its success. This was and is my position. It had, of course, no political value. No position has political value if it can be readily misrepresented by an unscrupulous enemy. Indeed it had no other merit than

common sense. It therefore pleased neither the fanatical drys nor the angry wets. But it represented my honest opinion and I declared it.

The results were interesting. An important political leader in Philadelphia called to tell me that my letter was "bad politics." An influential county "boss" gave notice that his promise of support was withdrawn. A prominent physician, a member of one of my committees, wrote me an angry letter of resignation. Organization hostile to me was begun among those who were socially my friends. On the dry side, Pinchot and his kind spoke of my stand in characteristic fashion. Vare, counting on Pinchot's candidacy to cut down my vote, announced his own candidacy for the Senate on a "light wine and beer" platform. Frantic friends begged me to make an utterance that would satisfy those wets who, for other reasons, wanted to vote for me. My refusal to modify what I had said was ascribed in many quarters to a lack of political acumen. "Too bad," said a citizen of average political knowledge to a friend of mine, "that Pepper hasn't sense enough to take a different position." "But the position he takes is an honest expression of his views," observed my friend. "Would you have him be dishonest about it?" "I never thought of it that way," said the citizen. Vare won. I was second. Pinchot trailed.

What is the political analysis? Would the result have been different if I had "risen above principle"? "Certainly," says the cynic. "By side-stepping you could have kept the issue out of the campaign. As it was, you handed one popular extreme to Vare and the other to Pinchot." Such reasoning seems to me to leave basic facts out of consideration. Vare was enabled to defeat me only by the organization vote in Philadelphia. If I had been

wet and Vare dry the vote in South Philadelphia would not have been materially affected. The vote against me was produced by the ward leaders, not by my declaration. Up state, on the other hand, my declaration made me friends. I carried against Vare sixty-two out of sixty-six counties outside of Philadelphia and came to Philadelphia with the enormous plurality of 140,000. The counties thus carried included five of the wettest counties in the State, and among them the county of the boss referred to above. Nor did Vare enter the race for any other reason than that he saw a chance to slip into office in the situation which Pinchot's candidacy created. If Pinchot ran Vare was determined to run, irrespective of issues, declarations or any other factors. Pinchot's decision to run was determined by no other consideration than that which had actuated him in earlier campaigns: there was a vacancy to be filled and he heard the voice of the people calling for him to fill it. If I had been an extreme dry I know him well enough to believe that he would have found other causes to champion and would have championed them valiantly—and with the same result. Naturally enough, in casting about for arguments, the anti-prohibitionists are now recording my defeat as their achievement. But the situation was far more complex than they realize and the issue which presents itself to them as the only issue was in fact negligible so far as the result is concerned. On the other hand, a perfect illustration of a result directly due to the "wet" vote was the nomination of Pinchot for the governorship of Pennsylvania in May, 1930. Pinchot, an extreme dry, was opposed by Francis Shunk Brown, who declared merely for a referendum. The wets put their own candidate into the fight and every vote for him was, of course, sub-

tracted from Brown. The larger the wet vote, under such circumstances, the larger was Pinchot's margin. The definiteness of his stand was the very thing that brought him victory.

The Soldier's Bonus question created another issue which had to be faced or evaded. It seemed clear to me that the proposal to make cash payments to men who had served in the World War and had emerged unhurt was from every point of view an unsound proposal. In the individual case the payment was not large enough to have business value. In the aggregate the amount involved was sufficient to impair our ability to do justice to the disabled men. Sentimentally, the payment of money to those who had earned the country's lasting gratitude seemed to me like offering a tip to the man who had saved your life at the risk of his own. Newspapermen asked me to express my views and I did so. I thus incurred the opposition of the American Legion and some of this opposition was incredibly bitter. It took various forms. Some legion posts passed fiery resolutions. Individuals wrote threatening letters. A soldier who had lost a leg was employed in the interest of one of my adversaries to appear at political meetings and declare that he had sought an interview with me in Washington and that I had told him "to get the h—l out of here." Altogether, the attempt to act on principle had lively consequences. Vare was for the bonus and he won. Does this prove that my declaration was a factor in my defeat? In my opinion it does not. The fact is that the opponents of the bonus became just as fanatical in their opposition as were the proponents in their advocacy. Speaking generally, the business and financial interests of the country were arrayed on the negative side. The intensity of their oppo-

sition was illustrated in a social club in another state where the portrait of an otherwise popular senator was hung with face to the wall because he favored the bonus. These interests were, on the whole, more effective politically than was the Legion. My declaration had been made without considering its political consequences, but as things turned out I believe that throughout the State the net result of my stand was helpful to my candidacy. Vare was wise in his generation in coming out as he did: for up-state his soldier vote reduced my plurality and to that extent made the task of his city organization less formidable. Viewing the whole incident in retrospect I believe that here again honesty proved to be the best policy.

When in July of 1924 members of the American Bar Association made an English pilgrimage I was invited to address them before they sailed. The increased use by federal judges of the injunction in labor disputes had long been a matter of concern to me. In view of the interesting English legislation on this subject it seemed to me that the pilgrims might usefully be invited to study the English solution of this serious problem. I accordingly devoted my address to this subject. The occasion was, of course, non-political and I dealt with the matter without reference to its effect on my candidacy. About the same time, but strictly in the course of public business, I advocated the submission to the States of the proposed child-labor amendment, my belief being that agitation for amendment would persist until the states had had a chance to express themselves. These two declarations were undoubtedly "bad politics." Mr. Grundy, claiming to voice the sentiment of the manufacturing interests in Pennsylvania, was outraged by them and in person noti-

fied me of his opposition. As he later became the dominant factor in the campaign to nominate the "ticket" on which I had a place, it was a serious matter to have incurred his hostility. Again, however, a factor must be reckoned with which, in a superficial study of the incident, might easily be overlooked. That factor is the existence of relentless hostility to me on Mr. Grundy's part long before my position was declared on either of the two issues in question. In other words, my utterances on those subjects merely added fuel to a flame already burning with intensity. Had I evaded both of them, the campaign "line-up" would have been the same: the direction of policy and the raising and expenditure of campaign funds would still have been under the control of a political enemy. While, therefore, my attitude on these two questions undoubtedly did me serious harm, I am inclined to think that it aggravated a situation but did not create it. Neither utterance gained me support. So far as there was anything that could be described as a labor vote, Pinchot had it; and in the coal regions he was particularly strong because he had acquired the support of the United Mine Workers by his shrewd political manipulation of the anthracite strike situation in 1923. The supporters of the child-labor proposal had no unified political strength. The stand of many of them in the campaign was determined by other considerations. On the whole, therefore, I was hurt by these utterances and not helped by them but neither was a factor of great importance in producing the ultimate result.

The rashness with which confident political inferences are drawn by superficial observers is illustrated by the statement sometimes made that my stand on the World Court issue contributed to defeat. In the Senate I advo-

cated separation of the Permanent Court from its organic relationship to the League. This seems to me a highly desirable result, as tending to minimize the possibility of political interference with the Court's judicial function. When it became evident to me that complete separation of Court from League could not be accomplished, I bent all my energies to secure, as a condition of adherence, a provision making it possible for the United States to curb the power of the Court to act as adviser to the League. As the result of many conferences between senators and with others, such a condition was finally included in the resolution of adherence and I voted in favor of adherence on these terms. Here again I was following a course which had no vote-getting value. As usual, the extremes of advocacy and opposition were the popular positions. To be willing to vote for adherence on any terms was regarded by many as a weakness. To stipulate for a condition unwelcome to the League was an offence to those who have what is called an international mind. In point of fact, however, my attitude on this question had no appreciable effect upon the result of the campaign. Mr. Vare, as far as I can recall, never stated his position on the subject and certainly I lost no votes to Pinchot on the Court issue. To list me as one of those who lost his seat by voting for adherence is merely an indication of ignorance of the facts. As I write, a proposal is pending to accomplish adherence by the United States without the safeguarding Senate condition, on the theory that League members have found a formula for accomplishing our purpose by using their words. My public opposition to this unsatisfactory substitution has again allied me with those who are opposed to adherence on any terms.

When in the autumn of 1925 I decided to seek renomination in the following spring I had to determine what attitude to take toward the Vare organization in Philadelphia. If I had been willing to ask that organization to sponsor my candidacy few well-informed people will doubt that overwhelming victory would have been the result. What I did was to issue the following statement:

> I am convinced that the best interests of the Republican party require the Senatorship to be treated as a mark of confidence by people of all the counties and not as an office to be bargained for with powerful groups in some of the counties.
>
> I do not say this in hostility to any group. On the contrary I advocate political organization in each county according to the temperament and character of its people.
>
> But I do not believe it to be wholesome for any of the counties to be overweighed by the influence and power of others. This is a Commonwealth. The Senatorial office is the concern of the whole state. The Senator ought to be the free choice of all the people.

I was convinced that local organization support would have involved so great a sacrifice of independence that a Senate seat acquired in this way was not worth having. I realized that sooner or later there must come a test of strength and in issuing this statement I was necessarily inviting the test. Even so, Mr. Vare would have hesitated to accept this issue and to risk single combat. He preferred to reckon on the intervention of Pinchot which at that time was probable but not certain. Mr. Vare's advisers did all they could to amplify the call of the people to which Pinchot's ear is sensitive and it will, I suppose, never be known just how much of the demand for his candidacy was actually inspired by them. After the primary they with pardonable pride reckoned this as their most astute move and undoubtedly it was. Looking back

over the whole episode the only lasting regret of which I am conscious is the regret that Pinchot could not resist the temptation to spoil what would have been a pretty fight. If Vare had decided against single combat his organization would thereafter have borne to the United States Senator no other relation than that borne by every other county organization in the State. If he had sought the nomination in a two-sided fight, no matter what issues were injected, an analysis of the vote demonstrates that I would have won by a wide margin. In that event, however, if it is to be assumed that all other conditions remained the same, I should have been compelled to bear the odium of large campaign expenditures raised against my will and used to my disadvantage but labeled with my name. What action the Senate would have taken in such a case is of course mere matter of opinion, but even to have one's election ascribed to the use of money, no matter how baseless the charge, is too high a price to pay even for the privilege of serving one's country.

Of what has here been written this is the sum: that whatever may be in general the soundness or unsoundness of the maxim with which this chapter began, it derives no support from the record of my own political experience.

Reviewing that experience and my term of service in the Senate, I find a great deal upon which to look back with satisfaction. Five years of strenuous work yielded a little in the way of achievement and much in the way of self-development. That I made many lasting friendships, incurred few personal enmities, and acquired and retained the confidence of those fellow citizens whose esteem I most valued are facts upon which it is agreeable to reflect. Another fact—namely, that I have no intention of ever seeking or accepting public office of any

sort—enables me to review the record with a measure of philosophic detachment. It is only at rare moments that I covet even momentarily the opportunity again to influence the course of events at Washington.

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